

## **DEPARTMENT OF DEFENSE APPROPRIATIONS FOR FISCAL YEAR 2015**

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**MONDAY, MAY 19, 2014**

**U.S. SENATE,  
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,  
*Chicago, Illinois.***

The subcommittee met at 9:28 a.m., in the Phoenix Military Academy, 145 South Campbell Avenue, Chicago, Illinois, Hon. Richard J. Durbin (chairman) presiding.

Present: Senator Durbin.

### **IMMIGRANT ENLISTMENT: A FORCE MULTIPLIER FOR THE U.S. ARMED FORCES**

#### **STATEMENT OF HON. LUIS V. GUTIÉRREZ, UNITED STATES HOUSE OF REPRESENTATIVES**

##### **OPENING STATEMENT OF SENATOR RICHARD J. DURBIN**

Senator DURBIN. Welcome. This hearing of the United States Senate Subcommittee on Defense Appropriations will come to order.

Today's hearing is entitled, "Immigrant Enlistment: A Force Multiplier for the U.S. Armed Forces." It will examine the benefits of immigrants enlisting in the military. Before going any further, I would like to ask everyone, please to stand and join me in the Pledge of Allegiance.

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.

Thank you. My name is Dick Durbin. I am a United States Senator from Illinois and chairman of the Senate Subcommittee on Defense Appropriations. Thank you to those who are here in person and those who are following the hearing on Facebook and Twitter using #DREAMtoServe.

For those who are attending their first congressional hearing, I will explain how we are going to proceed. I will deliver a brief opening statement, then we will hear statements from witnesses, and then I will ask some questions.

I want to note that the rules of the Senate prohibit outbursts or demonstrations of any kind in a public hearing, and I will enforce the rules. If there are disruptions, those who are responsible will be held responsible. If they continue, I will ask them to be removed.

Lastly, before we begin, I want to thank the Chicago public schools and the Phoenix Military Academy for hosting us and allowing us to be here today for this hearing. I especially want to thank retired Colonel Kevin Kelley, Director of Military Instruction for Chicago Public Schools; Phoenix's commandant, retired Lieutenant Colonel Victor Harris; Phoenix's principal, Ferdinand Wipachit, and Jer Rodriguez and Devin Sizer from Chicago Public Schools. I also want to thank the cadets of the Phoenix Military Academy who are in attendance.

America is a Nation of immigrants. Since the beginning of our republic, immigrants have come to our shores from around the world leaving behind everything they knew to build a life for themselves and their children. And throughout our history, immigrants have proudly served in the United States Armed Forces fighting and even dying alongside native-born Americans to defend their adopted country. For example, one of the first servicemen killed in combat in Iraq was Lance Corporal José Gutiérrez, who came to the United States illegally from Guatemala.

Today, our immigration system is broken. It does not reflect our heritage as a Nation of immigrants. There are millions of undocumented immigrants in our country who want to be part of America. But under current law, there is no way for them to get in line and legalize their immigration status. Regardless of their qualifications, they are unable to participate in many sectors of America, including the military.

It has been 13 years now since I first introduced the DREAM (Development, Relief, and Education for Alien Minors) Act. This legislation would allow immigrant students who came to the United States as children to earn their citizenship by attending college or serving in the military. The young immigrants who would be eligible for the DREAM Act call themselves DREAMers. We have not been able to pass the DREAM Act yet, but thanks to President Obama, DREAMers can receive temporary legal status under the Deferred Action for Childhood Arrivals program, also known as DACA.

DREAMers were brought to the United States as children. They grew up in this country. They have overcome great obstacles. They are our future doctors, engineers, teachers, soldiers, sailors, airmen, and marines who will make America stronger.

Over the years, I have met many DREAMers who want nothing more than to give back to the country they love by serving in the Armed Forces and they have the talent, the heart, and determination to be great servicemembers. We are going to meet some of them today.

Sadly, there have always been voices of hate who have spread fear about immigrants. Today is no different. One Congressman from Iowa was asked recently about DREAMers who want to serve in the United States military. This is what he said, "As soon as they raise their hand and say, 'I am unlawfully present in the United States,' we are not going to take your oath into the military, but we are going to take your deposition, and we have a bus for you to Tijuana." That is what he said.

Unfortunately, this is not the first time we have heard similar hateful comments from this Congressman. I call on every Member

of Congress, both parties, to reject this hateful, divisive rhetoric. There is no place for this kind of language in any constructive debate about immigration.

Previous generations of Americans also faced racism and exclusion, but their military service played a crucial role in overcoming discrimination. During World War II, many of us have seen the movie where African Americans had to prove their patriotism and love of America, the Tuskegee Airmen, African Americans who served in what was then the Army Air Corps, the Camp Montford Point Marines, who went through basic training for the Marines as African Americans in primitive circumstances proving their love of this country.

In that same war, Japanese-Americans who were highly suspect because of the invasion and destruction at Pearl Harbor, formed their own unit, the 442nd was one of them, which ended up being the most decorated military unit in the war. One of the members of that unit was Dan Inouye, the late Senator from Hawaii, who was ultimately awarded with the Congressional Medal of Honor for the heroism and bravery that he demonstrated as part of that Japanese-American effort to prove that they were loyal to America. During World War II, facing segregation and divisions within America, it was the American military which opened the door of opportunity for so many groups.

In 2010, I brought the DREAM Act vote to the Senate. We won a majority of votes, but not the 60 we needed to defeat our filibuster. Senator Inouye reacted to our defeat and said, "By allowing the DREAM Act to sit idle, we extinguish hope for a lot of people and deny too many the opportunity I was given."

I will acknowledge as well that my friend, Congressman Gutiérrez is here today with Congressman Foster, successfully guided the DREAM Act through the U.S. House of Representatives and I congratulate you for that effort.

But last year, we passed the Comprehensive Immigration bill in the Senate by a vote of 68–32. There were eight of us, four Democrats and four Republican Senators who sat down and worked for months to write this bill. And when it was over, we constructed a comprehensive immigration reform bill. It is now pending before the U.S. House of Representatives and has been for almost a year.

Today, again, I call on the Republican leadership of the House to bring the Senate immigration reform bill to the floor of the House. If Speaker Boehner gives us a vote, I am confident immigration reform will pass with a strong bipartisan majority, and the President will sign it into law. If the House Republicans refuse to act, then the administration can use the authority it has under current law to fix some of the problems with our broken immigration system.

For example, the Defense Department can authorize the enlistment of noncitizens when it is vital to the national interest. This determination is entirely in the discretion of the Defense Department. It is clear that enlisting DREAMers is vital to the national interest. It would give the Armed Forces more diversity and inclusivity, and it would allow the Armed Forces to access well-qualified, educated, homegrown talent, many of whom are in this room today.

DREAMers who have received DACA have been thoroughly vetted by the Department of Homeland Security. They are linguistically and culturally diverse, well-educated and integrated into American society. As we will see today, many DACA recipients have shown a great aptitude for military service through service in the Junior Reserve Officers Training Corps. And as Secretary of Defense Robert Gates said in 2010, authorizing the enlistment of DREAMers will result in improved recruitment results and attendant gains in unit manning and military performance.

While the Armed Forces are reducing in size, the services still need to enlist tens of thousands of well-qualified recruits. Many fewer Americans are meeting enlistment standards and we have to make sure that as the Department of Defense has told us that we have good people enlisting in our military. And here is a quote from a Department of Defense official recently, “Today nearly 75 percent of our youth are not qualified for military service with medical conditions and weight accounting for most of the disqualifications. Compounding eligibility concerns is the lack of youth interested in military service.”

#### PREPARED STATEMENT

The question is this: Will America be a stronger country if we deport our DREAMers to countries they barely remember or if we allow them to contribute more fully to the country whose flag they pledged allegiance to every day they have been in school? The answer is clear. I am confident that DREAMers will soon have the chance to serve honorably in the Armed Forces and on that day, America will be stronger and better.

[The statement follows:]

#### PREPARED STATEMENT OF SENATOR RICHARD J. DURBIN

##### INTRODUCTION

America is a Nation of immigrants. Since the beginning of our republic, immigrants have come to our shores from around the world, leaving behind everything they know to build a new and better life for their children. And throughout our history, immigrants have proudly served in the United States Armed Forces, fighting—and dying—alongside native-born Americans in defense of their adopted country. For example, one of the first servicemen killed in combat in Iraq was Lance Cpl. Jose Gutierrez, who came to the United States illegally from Guatemala.

But today our immigration system is broken and does not reflect our heritage as a Nation of immigrants. There are millions of undocumented immigrants in our country who yearn to be Americans. But under current law there is no way for them to get in line and legalize their immigration status. And, regardless of their qualifications, they are unable to participate in many sectors of our society, including the military.

##### THE DREAM ACT

Thirteen years ago, I first introduced the Dream Act. This legislation would allow immigrant students who came to the United States as children to earn their citizenship by attending college or serving in the military. The young immigrants who would be eligible for the DREAM Act call themselves Dreamers. We haven't been able to pass the DREAM Act yet, but—thanks to President Obama—Dreamers can receive temporary legal status under the Deferred Action for Childhood Arrivals program, also known as DACA.

Dreamers were brought to the United States as children. They grew up in this country and have overcome great obstacles to succeed. Dreamers are the future doctors, engineers, teachers—and soldiers, sailors, airmen, and Marines—who will make America stronger. Over the years, I've met many Dreamers who want nothing

more than to give back to the country they love by serving in the Armed Forces. And they have the talent, the heart, and the determination to be great servicemembers.

We are going to meet some of these Dreamers later today.

#### DISCRIMINATION AGAINST IMMIGRANTS AND MINORITIES

Sadly, there have always been voices of hate who have spread fear about immigrants in our country. Today is no different. A Republican Congressman from Iowa was asked recently about Dreamers who want to serve in the military. He responded:

“As soon as they raise their hand and say, ‘I’m unlawfully present in the United States,’ we’re not going take your oath into the military, but we’re going to take your deposition and we have a bus for you to Tijuana.”

Unfortunately, this is isn’t the first time we’ve heard xenophobic comments from this Congressman. I call on every member of Congress—Republican and Democrat—to reject this divisive rhetoric. There is no place for this kind of nativism in the debate about immigration.

Previous generations of Americans also faced racism and exclusion. But their military service played a crucial role in overcoming discrimination. During World War II, the military was still racially segregated and Jim Crow laws imposed a reign of terror on African Americans living in the South. But African-American pilots—known as the Tuskegee Airmen—served heroically in World War II—and in the fight for civil rights.

After the bombing of Pearl Harbor, tens of thousands of innocent Japanese-Americans were held in internment camps. Despite being labeled “enemy aliens,” many young Japanese Americans volunteered to fight in World War II. The 442nd Regimental Combat team, an all Japanese-American unit, suffered the most casualties in the European campaign and was also the most decorated unit of its size in the history of the United States military.

My predecessor as chairman of this subcommittee was Senator Daniel Inouye. Senator Inouye, who passed away in 2012, was as an American hero. He served in the 442nd and received the Medal of Honor for his heroism in a battle against the Nazis in which he lost his arm.

In 2010, I brought the DREAM Act to a vote in the Senate. We won a majority of votes, but not the 60 votes that we needed to defeat a Republican filibuster. I will never forget Senator Inouye’s reaction. He said, “By allowing the DREAM Act to sit idle, we extinguish hope for a lot of people and deny too many the opportunity I was given.”

#### COMPREHENSIVE IMMIGRATION REFORM

Last year, the Senate passed a comprehensive immigration reform bill on a bipartisan 68–32 vote. I was proud to be part of the “Gang of 8” Democrats and Republicans who authored this bill. Our bill would strengthen border security, reform our legal immigration system, and create a path to citizenship for undocumented immigrants.

So far, the only immigration legislation the Republicans in the House of Representatives have passed is an amendment to deport Dreamers. Just last Friday, the House Republican Majority Leader announced that he will block a vote on an amendment that a fellow Republican wanted to offer to simply allow Dreamers to enlist in the Armed Forces.

Today, I again call on the Republican leadership of the House of Representatives to bring the Senate immigration reform bill to the floor of the House. If Speaker Boehner gives us a vote, I’m confident immigration reform will pass with a strong bipartisan majority and the President will sign it into law.

#### ENLISTING DREAMERS

If the House Republicans refuse to act, then the Administration can use the authority it has under current law to fix some of the problems with our broken immigration system.

For example, the Defense Department can authorize the enlistment of non-citizens when it is “vital to the national interest.” This determination is entirely in the discretion of the Defense Department. It is clear that enlisting Dreamers is “vital to the national interest” because it would make the Armed Forces more diverse and inclusive, and it would allow the Armed Forces to access a well-qualified, educated, homegrown talent pool.

Dreamers who have received DACA have been thoroughly vetted by the Department of Homeland Security, are linguistically and culturally diverse, and are well-

educated and integrated into American society. As we will see today, many DACA recipients have shown a great aptitude for military service through service in Junior Reserve Officers' Training Corps (JROTC). In 2010, Secretary of Defense Robert Gates said that authorizing the enlistment of Dreamers "will result in improved recruitment results and attendant gains in unit manning and military performance."

While the Armed Forces are reducing in size, the services still need to enlist tens of thousands of well-qualified recruits every year. And many fewer Americans meet enlistment standards and are interested in enlisting. As a Defense Department official recently testified: "Today nearly 75 percent of our youth are not qualified for military service with medical conditions and weight accounting for most of the disqualifications. Compounding eligibility concerns is the lack of youth interested in military service."

The question is this: Will America be a stronger country if we deport our Dreamers to countries they barely remember or if we allow them to contribute more fully to the country they love? The answer is clear. I am confident that Dreamers will soon have the chance to serve honorably in the Armed Forces. On that day America will be stronger and better country.

**Senator DURBIN.** Now, I would like to turn to our first witnesses. We are honored today to be joined by two of my colleagues from the House. Each witness is going to have 5 minutes for an opening statement. Their written statements will be made part of the record. They know this well because they have sat on this side of the table.

The first witness today is Congressman Luis Gutiérrez, who has represented the 4th Congressional District since 1993. He is a national leader on the issue of immigration reform. He chairs the Congressional Hispanic Caucuses' Immigration Taskforce. He led successful efforts to pass the DREAM Act in the House in 2010.

Congressman Gutiérrez, we are honored to have you as a witness, and the floor is yours.

#### SUMMARY STATEMENT OF REPRESENTATIVE LUIS V. GUTIÉRREZ

**Representative GUTIÉRREZ.** Thank you. Thank you so much, Senator Durbin.

First of all, I would like to thank all of the wonderful young men here and women at the Phoenix Military Academy. Thank you so much for hosting this activity. I am very, very proud to be here this year.

We know we are doing good, Senator, because the Alderman showed up, Walter Burnett. Thank you so much for joining us. I know you are here with us.

And we have a right in this country to let our feelings be known and to express them freely and openly, but I have come here today to say thank you to all of you for taking the steps. With so much violence, and gangs, and drugs, and so many things that take our youth down the wrong path, I want to say thank you for making your commitment to the right path to excellence, both educationally and morally and spiritually that you do here each and every day at the Phoenix Military Academy. I am proud to be here today with you and thank you, Senator, for hosting this wonderful activity.

I want to say, first of all to everybody here that I was excited about coming here because it was the Phoenix Military Academy that has come to visit me in Washington, DC, but also because Senator Dick Durbin was hosting this activity. I cannot think of a person that has done more in the Senate, in the congress of the United States to advance the cause of young, immigrant youth in this country than Senator Durbin. And I think we should give him

a round of applause as he led, successfully, the passage of Comprehensive Immigration Reform in the U.S. Senate.

And I am here to tell him, we are going to roll up our sleeves in the coming weeks. We are going to keep our commitment. We are going to keep our dedication. We are going to keep our focus, Senator Durbin, so we can have a companion bill in the House of Representatives.

Today, the votes exist for the DREAM Act, for Comprehensive Immigration Reform in the House of Representatives. They exist. They exist because the argument has been won. And I want to say that it is not good enough to pass the DREAM Act in the House. It is not good enough to pass Comprehensive Immigration Reform in the Senate. We will not rest until we pass Comprehensive Immigration Reform and Barack Obama, our President, signs that into law so that you can all be free to live in this country, and to enjoy the fruits of your hard work and labor in this country.

I want to say that we have a letter that we sent around to the Secretary of the Army, Secretary of the Navy, Secretary of the Air Force, and it is a bipartisan letter, Senator Durbin. I would like to put it officially into the record in which we note that the Navy, and the Army, and the Marine Corps will not let you even join if you have an undocumented dependent.

That means if you are an American citizen and your wife is undocumented, if your children are undocumented, you cannot enlist in the armed forces. I am happy to see that we are going to have some testimony to hopefully clarify that for us later on.

I think the Armed Forces of the United States should take action to include all American citizens regardless of the immigration status of their husbands and spouses.

And let me just say, I want to congratulate the administration for taking the kind of lead that Senator Durbin asked them to take, and that was to use their executive authority.

Today, we know that members of the military whose wives are undocumented can simply be paroled in place, and thereby given permission, and allowed a legal status in the United States to go to a green card holder.

I want to thank President Barack Obama and this administration for allowing that because too many times we read, and we know here, everybody remembers Specialist Nunez who, when he took his wife back to Mexico, although he had orders for deployment, to come back, his wife was not allowed to return to the United States. Well, guess what? She is a green card holder today. Paroled in place is the way to go.

The administration has already made that regulation in order and I think that if we have that, that is exactly what the military should respect that that is what we are doing right now.

Now, in terms of this, I am hopeful today that this hearing is going to enlighten us, Senator Durbin, as we know that you have someone from the military coming to speak at a later panel, and that she will be able to enlighten us even more in terms of what it is the response of the taskforce, so that American citizens are not stopped.

I would also like, Senator Durbin, to put in, "Retired Military Leader Said Kids Will Be Too Fat To Fight," and this is from

CNN-NBC. I would like this in the record which shows the difficulty that we have in terms of recruitment of young men and women because of educational, because of physical condition.

We have young men and women that are immigrant that are in this country that are smart and physically fit. And you know what the most important thing is? Committed to the defense of our country and our Nation; we should allow them to join the military, especially at this time of need. And I would like to be put in order, too, to put it in the record.

Lastly, where are we at today? Sadly, Congressman Coffman and Congressman Denham, both Republicans, one from California, the other from Colorado, have bills to allow young DREAMers to enlist and thereby get their green card. But is it not sad that the majority leader, Congressman Cantor, last week said he will not allow a vote—a vote—on whether or not the DREAMers can enlist in the military; will not allow a vote.

Well, let me just say this: I remember a time when we could not pass Comprehensive Immigration Reform even if they allowed a vote. But that does not exist today. I want to say there are dozens, because I want the young men and women here to understand this. This is a bipartisan problem and has a bipartisan solution. I do not want them to think that this is all about Democrats and Republicans necessarily.

No, there are dozens of Republicans who want to vote for Comprehensive Immigration Reform in the House of Representatives. They want to respect the will of the people and they see, in the young men and women here, an opportunity for America to grow and to foster democracy. They want to get that done and there are dozens, hundreds of Democrats like Congressman Foster who came back to the U.S. House of Representatives to make sure that we pass Comprehensive Immigration Reform, and was there to successfully vote for the DREAM Act and get it passed. And I want to thank Congressman Foster for that moment of courage and insightfulness back 3 or 4 years ago when we got it passed in the House of Representatives.

So, Senator, in conclusion, look. We have the votes. The real question here is now whether or not in the House of Representatives even though we know there are close to 250 votes out of the 435, and we only need 218. And we do not need one person's arm twisted. We do not need to twist a single arm. We only want those who willingly, happily want to vote for comprehensive immigration. If they just allow a vote any day of the week, any hour of the day, allow a vote, give us an hour, you know what is going to happen? You will see that your good work, Senator, and those of the senators who are bipartisan in the senate, when you pass Comprehensive Immigration Reform last summer, we will get you a companion bill out of the House.

#### PREPARED STATEMENT

We will figure out the differences and we will get a bill on the senate so that all the young men and women, because I know that the young men and women here, you know undocumented youth that come to school with you each and every day. I know how you treat them. You treat them as your brothers and your sisters, and

I only hope that one day, the Federal Government will show the same kind of leadership that the young men and women here at Phoenix Military Academy have shown to their immigrant youth, that fight alongside of you, work alongside of you, get trained alongside, get educated alongside of you here every day. And that is to treat them with respect and to allow them to incorporate themselves totally into our society.

Thank you, Senator Durbin.

[The statement follows:]

**PREPARED STATEMENT OF CONGRESSMAN LUIS V. GUTIÉRREZ**

Chairman Durbin, Ranking Member Cochran, thank you for the opportunity to testify on this extremely important issue. I commend the young cadets who are present today for their discipline and accomplishments.

We are here to discuss the hopes and dreams of young talented men and women who wish to serve our great country but are denied the opportunity because of immigration issues.

It is my firm hope that the Republican-led House of Representatives will follow the lead of the Senate and the Leadership of Senator Durbin and President Obama and pass serious immigration reform this year that will resolve many if not all of these issues. But until that happens, our society must work around the fact that our immigration laws are thirty years out-of-date and the military is no exception.

Young undocumented immigrants or “Dreamers,” who are American in every way except for a piece of paper, are not able to fully contribute to our Nation because they are not allowed to enlist in our Armed Forces. Under current law, only U.S. citizens, green card holders and persons “vital to the national interest” can enlist in the military.

In June 2012, the Administration announced Deferred Action for Childhood Arrivals, known as DACA, to protect young immigrants from deportation and grant them work permits.

This announcement was widely celebrated across our country. At one of Chicago’s top tourist destinations, Navy Pier, 15,000 Dreamers and their families stood in line to sign up for DACA the first day the program opened. To date, more than 600,000 immigrants raised and educated in the U.S. have signed up.

The popularity of the program led to sweeping Democratic victories at every level in the 2012 elections. It’s a growing boon to our economy because it allows DACA recipients to fully contribute their talents to our workforce. By signing up more than half a million well-educated individuals who passed a rigorous background check and demonstrated good moral character, there are fewer undocumented immigrants living in the shadows, a fact that makes the job of protecting our homeland and neighborhoods much easier for law enforcement and immigration agents.

As more young immigrants sign up for DACA, those already in the program will begin to renew their status this summer. Many of these DACA recipients are part of the Chicago Public Schools Military Academies. In fact, Chicago Public Schools run the largest JROTC program in the nation, with more than 10,000 students enrolled. Students in these military academies graduate at the top of their class, have above average ACT scores, and have diverse backgrounds.<sup>1</sup>

These programs instill in students the values of service, leadership, and personal responsibility. Many of these graduates want to pursue a career in the Armed Forces, but the ones who have applied for and received DACA are senselessly turned away.

Allowing these young patriots to enlist is vital to our national interest because it enhances the military’s cultural expertise and diversifies the pool of well-educated applicants for recruitment across the board.

I am very proud of the State of Illinois and the City of Chicago for being national leaders when it comes to integrating and developing the full potential of all immigrants. We are committed to welcoming immigrants who want to work hard and contribute to our city regardless of their origin or immigration status.

With State- and city-led initiatives like in-State tuition and scholarships for DACA recipients, more students would qualify to serve in the officer corps, helping to correct the underrepresentation of minorities in leadership positions in the Armed Forces—but only if we remove barriers to their service. A 2011 Military Leadership Diversity Commission report found that overall military officers “are less demo-

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<sup>1</sup> <http://www.chicagojrotc.com/>.

graphically diverse than both the enlisted troops they lead and the broader population they serve.”<sup>2</sup> If we align policies in a smart way at the Federal, State and local level, we can do something to correct this deficiency.

But DACA recipients are not the only ones who are turned away by the Armed Forces. Many U.S. citizens are being denied the opportunity to enlist. I am deeply troubled by the current Navy and Marine Corps regulation that prohibits U.S. citizens from enlisting in the military if they have an undocumented spouse or child. This regulation came to my attention last year when I read an article that said Marine Corps recruiters counseled a recruit to divorce her spouse in order to enlist.<sup>3</sup>

This and other reports prompted Congressman Mike Coffman of Colorado and me to lead a bipartisan letter from 33 Members of Congress to the Service Secretaries expressing our concern and requesting clarification on this policy.<sup>4</sup>

The Office of the Under Secretary of Defense for Personnel and Readiness initiated a policy review on this matter with all the Military Services. There is a working group examining both the DACA enlistment issue and the Navy regulation barring U.S. citizens from enlistment. I hope these issues are promptly resolved by the Department of Defense (DOD) working group and expect a report on their findings soon.

Our country should not turn away U.S. citizens because of who they love. And a soldier should not have to worry about his or her spouse being deported while they are defending our freedom.

Army Specialist Hector Nunez is someone who personifies how a flawed immigration policy negatively impacts our military.<sup>5</sup>

Specialist Nunez is a combat engineer in the Illinois Army National Guard who is responsible for clearing obstructions, including IEDs, for military convoys. His wife Rosa was brought to the U.S. from Mexico when she was 6 years old and grew up in Illinois. Hector and Rosa met and fell in love. They had a son who was born with a brain condition that required Rosa’s constant care. They sought legal advice to resolve Rosa’s immigration status but were badly misled. Rosa returned to Mexico for what she thought would be a brief period of time to pick up the visa she was granted. Hector had just received military orders to deploy to Afghanistan for a second tour when he learned that immigration rules barred Rosa and his 1 year old son from returning to the U.S. for 10 years. For a decade, they would have to live in Ciudad Juarez—perhaps the only place more dangerous than Afghanistan, a place where we issue “combat pay” for all U.S. personnel working in our consulate there.

Specialist Nunez asked me for help and I worked with the family and DHS to secure a humanitarian visa for Hector’s wife. She and Hector’s son were able to return to the United States safely and Specialist Nunez could redeploy without worrying about his family being in harm’s way.

This story is unimaginable but true. That’s why I applauded the November 15, 2013, U.S. Citizenship and Immigration Services (USCIS) memo that permits immediate family members of those who serve or served our country to apply for parole in place.<sup>6</sup> This feature of existing immigration law that President Obama extended to military families resolves many of their immigration status issues and allows many of them to apply for permanent legal residence. Policies like these will prevent more tragedies like Hector’s. They also ensure that military preparedness is not adversely affected by active duty servicemembers worrying about their loved ones getting deported.

The impact of our current immigration mess on issues of military recruitment is just one example of why immigration reform is desperately needed.

The fact that we have an estimated 11 million or more people living and working here underground is a serious national problem that must be resolved. We have as a society rightly concluded that driving out 11 million people and their families is bad policy. But leaving the status quo is no solution, either.

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<sup>2</sup>“From Representation to Inclusion: Diversity Leadership for the 21st-Century Military,” Military Leadership Diversity Commission, March 15, 2011, [http://diversity.defense.gov/Portals/51/Documents/Special%20Feature/MLDC\\_Final\\_Report.pdf](http://diversity.defense.gov/Portals/51/Documents/Special%20Feature/MLDC_Final_Report.pdf).

<sup>3</sup>“Military’s Immigration Battle; Pentagon Revisits Policy Barring Those With Spouses, Children in U.S. Illegally,” Miriam Jordan, Wall Street Journal, December 9, 2013, <http://online.wsj.com/news/articles/SB1000142405270230330204579248584130068744>.

<sup>4</sup>Letter to the Service Secretaries from Members of Congress, sent on November 21, 2013, <http://1.usa.gov/1jINLMy>.

<sup>5</sup>“A family once divided reunited for Christmas; Soldier’s wife is granted humanitarian visa,” Serena Maria Daniels, Chicago Tribune, December 26, 2010, [http://articles.chicagotribune.com/2010-12-26/news/ct-met-xmas-visa-20101226\\_1\\_visa-dream-act-christmas](http://articles.chicagotribune.com/2010-12-26/news/ct-met-xmas-visa-20101226_1_visa-dream-act-christmas).

<sup>6</sup>[http://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/2013/2013-1115\\_Parole\\_in\\_Place\\_Memo\\_.pdf](http://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/2013/2013-1115_Parole_in_Place_Memo_.pdf).

In the meantime, every institution in America, including our military, must work around the inability of our Federal Government and the U.S. House of Representatives to fix our immigration system.

DACA is an important first step in implementing modern immigration policies that reflect our values and strengthen our Nation. Next we must fully incorporate DACA recipients and their families and the millions of immigrants who live among us into our society.

Thank you Senator Durbin for your leadership on this issue and for the opportunity to testify.

**Senator DURBIN.** Our next witness is another Illinois colleague, Congressman Bill Foster representing the 11th Congressional District, member of the committee on financial services. In his background, you should know, Congressman Foster has a Ph.D. in physics. He is one of only three research physicists ever elected to congress.

A strong supporter of comprehensive immigration reform, Congressman Foster, we are honored that you are going to join us today, and the floor is yours.

**STATEMENT OF HON. BILL FOSTER, UNITED STATES HOUSE OF REPRESENTATIVES**

**Representative FOSTER.** Good morning, and I would like to thank you, Senator Durbin, for organizing this hearing, and for everything that you have done to support DREAMers and to fix our broken immigration system.

I am honored to have the opportunity to testify today, and to join Senator Durbin in his efforts to authorize the enlistment of DACA recipients into the U.S. Armed Forces.

For the last year and a half, I have had the honor of representing the 11th Congressional District, which includes Aurora, the second largest city in Illinois. And before that, I represented the 14th Congressional District, which also includes Aurora.

And in that time, I have had the opportunity to meet many DREAMers, young men and women who were brought into this country as children and for many of them, the United States is the only home they have ever known. Their place of birth, a distant, foreign land they scarcely remember.

One of my proudest votes in the historic 111th Congress was my vote in favor of the DREAM Act. And one of my most profound disappointments with the current House leadership of the current congress is its failure to bring up the DREAM Act in any form. In fact last year, House Republicans voted overwhelmingly to defund DACA, which is a lesson that should never be forgotten.

I often see DREAMers when so many of these young men and women have a deep love and commitment to this country. And I often see them in the halls of congress, pleading simply for the opportunity to become full-fledged citizens.

And despite the fact they have been designated as a second class of citizens, left in a state of limbo with no clear path to citizenship, I have no doubt that many of these young men and women would be the first in line for an opportunity to serve our country in the armed forces. But if they walk into a recruiting room today, they would be turned away, not because they are not smart enough, not because they are not strong enough, not because they do not love their country enough. They are turned away for one reason and for one reason alone, because of our broken immigration system. Un-

fortunately, this is just one of many symptoms of our broken immigration system which, for more than 20 years, has been left to rot by Congress.

So I am very pleased today that we are holding this discussion at the Phoenix Military Academy. It is just one of the many institutions that is preparing students for service in our armed forces.

I am also proud to represent another extraordinary institution which also does this, the East Aurora School District 131, which has the largest Naval Junior Reserved Officer Training Corps in the world at 950 students during the current school year.

Last year, 85 percent of all the students in the district were Hispanic. One-third all District 131 high school students receive bilingual services. In addition to academics and physical fitness, these students are taught to give back to their community, performing approximately 10,000 hours of community service each year.

The students graduating from this program are ideal candidates for the armed services. In fact, I recently had the honor of nominating Ruby Garcia, an East Aurora High School graduate, for an appointment to West Point. Ruby is the first female from East Aurora High School to be accepted at West Point. She will begin her training there this fall.

But how many other students, just like Ruby, have been denied the chance to serve in our armed forces simply because of their legal status? In June 2012, President Obama issued a memo halting the deportations of undocumented youth under the Deferred Action for Childhood Arrivals program, also known as DACA. To qualify for a DACA exemption, applicants must undergo background checks and finish high school. DACA allows them to stay and work in our country, but it does not offer them a path to citizenship, and it does not allow them to enlist in the military.

I believe that our national priorities fit-in to two general categories. First, things that we do to protect our strength as a Nation like maintaining a robust military or policies to support economic growth. And secondly, there are things that we do because of the kind of people we are, our dreams for the country, and the morals we have like providing care for our seniors, or early education for underprivileged children.

But this policy of denying DREAMers the opportunity to serve fails on both counts. It is simply poor policy to turn away these young men and women while we struggle to find qualified Americans, able and willing to serve. It is morally reprehensible to deny these patriotic young men and women the opportunity to serve the country they love.

DACA is an important program that has provided hope for thousands who are trying to build a life for themselves and for their families. But until we pass comprehensive immigration reform, hope and a safe haven is all that it offers. These DREAMers are currently in a state of limbo, able to work and go to school if they can afford it, but always living with the uncertainty and fear of what may come next. Until we pass comprehensive immigration reform, they have no path to citizenship and no idea whether their status will be upheld by the next occupant of the White House.

Providing DREAMers the opportunity to serve in the military will not fix the core problems with our broken immigration system.

Only congressional action to pass Comprehensive Immigration Reform can do that. But this is an important first step that can give a little more hope to these patriotic young men and women.

So thank you, Senator Durbin, for organizing this hearing and for giving me an opportunity to testify. And thank you to everyone who has come here today to share your insight and to speak out on this important issue.

Senator DURBIN. Thank you, Congressman Foster. Appreciate your testimony.

I want to thank Congressman Gutiérrez and Congressman Foster for coming here today. I know their schedules are very busy. You are welcome to stay, but if you have to leave, we certainly understand that. So thank you very much for coming here this morning.

Our next witness is Jessica Wright. She has come here from Washington, DC. She is the Acting Under Secretary of Defense for Personnel and Readiness, and I invite her to come to the table as I read her introduction.

Jessica Wright has served as the Acting Under Secretary of Defense for Personnel and Readiness in the Department of Defense since January 1, 2013. She is the senior policy advisor to the Secretary of Defense on recruitment, career development, pay and benefits. She oversees the overall state of military readiness.

Prior to her current position, she served as Assistant Secretary of Defense for Reserve Affairs. Under Secretary Wright retired as a Major General in the Pennsylvania Army National Guard after 35 years of military service. You must have enlisted at a very early age. Her final assignment in the Guard was Adjutant General of Pennsylvania and Commander of the Pennsylvania National Guard.

She has an extraordinary responsibility. I just want to make reference to the fact that her responsibility includes the recruitment, career development, pay and benefits for 1.4 million active duty military personnel, 1.1 million Guard and Reserve, and 680,000 DOD civilians. And she is responsible for overseeing the overall state of military readiness.

Under Secretary Wright, I know you just returned from overseas. I greatly appreciate you coming to Chicago today for this hearing. I thank you for meeting with me on several occasions to discuss enlisting DREAMers in the military and I look forward to continuing to work with you, Secretary Hagel, as well as President Obama on this issue.

The floor is yours. Your written statement will be included in its entirety. Please proceed.

**STATEMENT OF HON. JESSICA WRIGHT, ACTING UNDER SECRETARY FOR PERSONNEL AND READINESS, DEPARTMENT OF DEFENSE**

Ms. WRIGHT. Senator Durbin, thank you so much for inviting me to discuss immigrant enlistment in the armed forces. And I really appreciate you championing this issue tirelessly throughout the last several years.

It really is a great honor for me to be here at the Phoenix Military Academy, one of our many Junior Reserve Officer Training Corps programs in Chicago. And honestly, since the inception of JROTC in 1916, the Department has the largest youth develop-

ment program in our secondary schools in our community. And here in Chicago, the Chicago Public School system has the largest ROTC presence, which is about 37 traditional units and 10,000 students participating.

I want to commend each and every student for being here. I truly just want to thank all of the ROTC cadets for being here, for taking the additional responsibility of learning leadership through our military, of learning dedication, of learning strong integrity and the values that we hold.

And again, as you said, I enlisted as a private and I made it to Major General, and I would be honored if, at some time, they felt that they could invite me back to talk to one of the classes.

As you know, our military depends on a strong, diverse society to sustain the all-volunteer force, and for more than 13 years of a protracted conflict, the all-volunteer force has shown its resolve and continues to be the strongest and most respected military in the world.

Our servicemembers and civilian employees are the reason for this success. Our service recruiting commands have sustained this all-volunteer force by assessing the best and the brightest from across America, and their diverse backgrounds and finding the solutions for many national security issues from across the globe.

All the continued success of the volunteer force begins with recruiting and the viability of our force is assured because of the retention. Recruiting and retention has been easier in some years than others, and the support of Congress and you, sir, has clearly help to facilitate that success.

While we are currently achieving our recruiting goals, there is no guarantee that we will continue to achieve those goals. The support initiatives that would expand the number of eligible youths to enlist in the military, the Department continues to be on the record and supports the development, relief, education for minor aliens at the DREAM Act; totally support it.

The DREAM Act was largely incorporated in a bipartisan immigration reform bill that passed the senate last June, and we have been vocal about the fact that the Act will have a positive impact on our Armed Forces.

The DREAM Act legislation, which you have tirelessly supported, would provide the opportunity for those individuals who came to the United States at 15 years of age or younger, and have lived here more than 5 years to earn a legal status and enlist in our great armed forces if otherwise qualified and earn the right to become citizens of this great country.

Legislation like this would assist the military, and potentially, our recruiting efforts and increase the pool of eligible, young individuals that we can enlist. While the DREAM Act may create a larger pool of these enlistees, it may also further the diversity of our Department, our fleet, and our force.

A few weeks ago, the Secretary of Defense, and leaders from across our Department, signed the Human Goals Charter. The Charter is the cornerstone document that affirms the Department's commitment to diversity and equality in our military. Diversity is much more than race, gender, religion. It is a variety of mixture of thought, ability, background, language, culture, and skill.

The Armed Forces of the United States is a Nation of immigrants and have long distinguished them with a record of valor and sacrifice, the part of those who call the United States home, but are not yet citizens.

The history of noncitizens serving in the armed forces has been significant. The Lodge Act of 1950 permitted foreign nationals to enlist between 1950 and 1959, and we officially began recruiting Filipino nationals into the U.S. Navy in the 1940's when we signed the Military Base Agreement, allowing the U.S. military bases in the Philippines. A total of 35,000 Filipinos enlisted in the Navy between 1952 and 1991.

The DREAM Act would absolutely be similar and extend the opportunity to serve in the military for those youngsters brought to this country as children who are currently undocumented through absolutely no fault of their own.

Each year, it is estimated that approximately 65,000 undocumented students graduate from high school, and many of them are at the top of their class. However, they have difficulty affording college, cannot enlist in our military, legally work in the United States, or apply for citizenship, or pursue their dreams. These young men and women may be absolutely the quality of youth that the Department needs to enlist.

Passage of the DREAM Act, or other authorities, may offer this very specific set of young adults the opportunity to serve our Nation, which they grew up in, the path to becoming a productive citizen and contributing members of society.

As you know, June 2012, the Department of Homeland Security established the Deferred Action Childhood Arrival process, DACA. These youngsters were brought to this country by their parents, sometimes as infants, and they often have no idea that they were undocumented until they apply for a job, a driver's license, or a college scholarship. The Department understands the attributes of this young population that receives the deferred action through the Department of Homeland Security, the process known as DACA.

To that end, our Department continues to examine the laws and policies to address eligible, noncitizens in the military. The Department is working with Homeland Security in regarding the parole in place policy so lawful, permanent residents, citizens with undocumented family members may enlist in the military and resolve the issues performing to their undocumented spouses. And this goes to the statement that Congressman Gutiérrez brought up, sir, that we are working with Homeland Security to get to this point where we can enlist those individuals.

Today, more than 25,000 noncitizens in undocumented status serve in the military, Active and Reserve, and about 5,000 more enlist each year. Noncitizens have been, and continue to be, a successful member of our country's military. Those serve in patriotic, dedicated professionals. Noncitizen recruits continue to provide the services with a diverse course in terms of ethnic and race, language and culture.

#### PREPARED STATEMENT

In conclusion, noncitizens have served and continue to serve honorably in our military. Throughout the past and current conflicts,

those who are not yet citizens, but call America home have answered the call to defend the Nation. We look forward to the time when we will be able to grant more individuals the opportunity to serve this great Nation.

I thank you for the opportunity to appear here, and I look forward to your questions.

[The statement follows:]

PREPARED STATEMENT OF THE HON. JESSICA WRIGHT

Senator Durbin, thank you for inviting me to join you here today to discuss our mutual desire to develop a path to military service for Deferred Action for Childhood Arrival (DACA) recipients, an initiative that you have long championed. It is also a great honor to be a part of this engagement here, at the Phoenix Military Academy, one of the many Junior Reserve Officer Training Corps (JROTC) programs in the city of Chicago. I value this opportunity to join you in demonstrating for this student body, many of whom have studied civics and leadership as a part of their involvement in JROTC.

Since its inception in 1916, JROTC has been and remains the Department of Defense's (the Department's) largest youth development program in our secondary schools and communities across the Nation. Currently, JROTC has over 554,000 students enrolled in over 3,400 units across the country where students like those joining us here today gain valuable lessons in leadership, teamwork, and self-discipline. And, right here in Chicago, the Chicago Public School system has the largest JROTC presence in the Nation with 37 traditional units and over 10,000 students participating. I commend each of you for being a part of such a great program and am confident you will gain valuable lessons that will impact the rest of your lives. While you benefit from JROTC, it is also important to realize that our society gains too. The societal benefits of JROTC are significant and long lasting as well.

I would like to take this opportunity here at the Phoenix Academy to commend the JROTC instructors as well as the entire faculty and staff. The commitment that each of you have to providing a tremendous learning environment for these young people is outstanding. My sincere thanks to each of you for your service, and for your stalwart commitment to these students and our program.

Our military depends on a strong and diverse society to sustain the All-Volunteer Force. For more than 13 years of protracted conflict, the All-Volunteer Force has shown its resolve and continues to be the strongest and most-respected military force in the world. Our people are THE reason for this success. Our Service Recruiting Commands have sustained the All-Volunteer Force by recruiting the best and brightest of America's youth from across our Nation. Their diverse backgrounds aid immeasurably in finding solutions to the many complex national security issues with which the Department is charged from around the globe. The continued success of our All-Volunteer Force begins with recruiting, and the viability of the force is assured with successful retention. Both recruiting and retention have been easier in some years than in others. The support of Congress has clearly helped facilitate our success. While we are currently achieving our recruiting goals, there are indications that the recruiting environment may become more challenging in the future as the economy continues to improve.

To support initiatives that would expand the number of youth eligible to enlist in the military, the Department continues to be on record as supporting the "Development, Relief, and Education for Alien Minors" (DREAM) Act, which was largely incorporated in the bipartisan immigration reform bill that passed in the Senate last June, and has been vocal about the potential positive impact of this legislation on our Armed Forces.

The DREAM Act, legislation which you have tirelessly supported, would provide an opportunity for those individuals who came to the United States at 15 years of age or younger and have lived here for at least 5 years to earn a legal status, to enlist in the United States Military, if otherwise qualified, and earn the right to become a U.S. citizen. Legislation like this would also help the military and our recruiting efforts by expanding the pool of youth eligible for enlistment.

While the DREAM Act would create a larger pool of potential enlistees, it would also assist the Department in furthering our diversity goals. Just a few weeks ago, the Secretary of Defense and other top leaders across the Department signed the Human Goals Charter, a cornerstone document that affirms the Department's commitment to diversity and equality throughout the military. Diversity is more than race, gender, and religion. It is a variety or mixture of thought, ability, background,

language, culture, and skill. Passage of the DREAM Act would expand our ability to become a more diverse force and afford a group of young people the opportunity to join the military and become part of a rich tradition of service.

Our Armed Forces of this great Nation, a nation of immigrants, have a long and distinguished record of valor and sacrifice on the part of those who call the United States "home," but are not yet citizens.

The history of noncitizens serving in the U.S. Armed Forces has been significant over time. The Lodge Act of the 1950s, for example, permitted noncitizen Eastern Europeans to enlist between 1950 and 1959. We officially began recruiting Filipino nationals into the U.S. Navy in the late 1940s, when it signed the Military Bases Agreement of 1947, allowing U.S. military bases in the Philippines. In total, over 35,000 Filipinos enlisted in the Navy through the program between 1952 and 1991. The DREAM Act would similarly expand the opportunity to serve in the military to those young people brought to our country as children who are currently in an undocumented status through no fault of their own.

Each year, it is estimated that approximately 65,000 undocumented students graduate from U.S. high schools and many are at the top of their class. However, they have difficulty affording college; cannot enlist in the military; legally work in the United States; apply for U.S. Citizenship; or otherwise pursue their dreams. These young men and women often mirror exactly the "high quality" youth the Department seeks for enlistment. They may be scholars, student leaders, and athletes. They are often "Americans" in every cultural sense of the word, having grown up in the United States and pledging allegiance to our flag. Passage of the DREAM Act would offer this very specific subset of young adults the opportunity to serve the nation in which they grew up, and a path to becoming productive citizens and contributing members of our society.

As you know, in June 2012, the Department of Homeland Security (DHS) announced the establishment of the Deferred Action for Childhood Arrivals process. As then DHS Secretary Napolitano stated, "Our nation's immigration laws must be enforced in a firm and sensible manner. But they are not designed to be blindly enforced without consideration given to the individual circumstances of each case. Nor are they designed to remove productive young people to countries where they may not have lived or even speak the language. Discretion, which is used in so many other areas, is especially justified here." Speaking from the Rose Garden that same day, President Obama remarked, "these are young people who study in our schools, they play in our neighborhoods, they're friends with our kids, they pledge allegiance to our flag. They are Americans in their heart, in their minds, in every single way but one: on paper. They were brought to this country by their parents—sometimes even as infants—and often have no idea that they're undocumented until they apply for a job or a driver's license, or a college scholarship."

The Department recognizes the positive attributes of the population of young people that has received deferred action through the Department of Homeland Security's DACA process. To that end, the Department continues to examine the laws and policies that address the eligibility of noncitizens to serve in the military in order to determine if and how our programs could be applied to DACA recipients. The Department also supports legislative proposals that would expand enlistment to include additional noncitizens.

Additionally, the Department is working with DHS regarding its parole-in-place policy so that lawful permanent residents and citizens with undocumented family members may enlist in the military and resolve issues pertaining to their undocumented family members. I look forward to working with DHS on immigration issues important to enlistees and current Service members, as well as to veterans.

Today, more than 25,000 noncitizens in documented status serve in the military (Active and Reserve) and about 5,000 more enlist each year. They serve worldwide in all of the Services and in a variety of jobs. They swear allegiance to the United States and represent our Nation both at home and abroad—even on the front lines of our current overseas contingency operations. Nearly 93,000 have been granted citizenship through military service since September 11, 2001, and over 125 who entered military service since then have made the ultimate sacrifice, having given their lives for our country in a time of war.

Nocitizens have been, and continue to be, a vital part of our country's military. Those who serve are patriotic, and data shows that over 80 percent complete their initial enlistment obligation. Noncitizen recruits continue to provide the Services with a richly diverse force in terms of race/ethnicity, language, and culture.

In conclusion, noncitizens have served and continue to serve honorably in the military. Throughout past and current conflicts, those who are not yet citizens, but call the United States of America "home," have answered the call to defend their

adopted Nation. I thank you for the opportunity to appear here with you today and look forward to your questions.

Senator DURBIN. Thank you, Madam Secretary, for returning here from Washington and giving your testimony.

You have dedicated your life to the military. You understand what it means to all of us, for the men and women who are prepared to fight and even die, if necessary, to defend this great Nation. And I thank you for that commitment on your part and on behalf of all those that you represent here today.

As a student of history, as we look back, the U.S. military has been an opportunity for America to start to get things right. Back in World War II, when this Nation was divided by race, even much worse than it is today, President Roosevelt decided to end racial discrimination in the recruitment of men and women into the military. And later, of course, President Truman absolutely eliminated segregation in our military.

Each of those steps were taken long before our courts and Congress had reacted to the issue of discrimination. And so, in a way, the military has been a leader in America as we have evolved on issues like race.

I mentioned the experience of former Senator, late Senator Dan Inouye. Japanese-Americans were suspect after World War II began with the attack on Pearl Harbor. Whose side were they going to be on? And it was Senator Inouye, as a young man and thousands like him, who stepped up and said, "We may have our roots in Japan, but we are committed to the United States and we are prepared to fight for this country."

They proved it over and over again in the course of that war, the kind of heroism and valor that is extraordinary. And they put to rest any critics who said, "We cannot trust Japanese-Americans because of Pearl Harbor."

So we are at another moment in America's history where we are dealing with the issue of immigration. And, of course, it involves many groups, largely Hispanic but not exclusively, who are asking for that same opportunity to break down the hatred that some harbor against them, and to prove their love of this country.

One of the key tests in the Department of Defense is whether the recruitment of noncitizens is vital to the national interest. That is the phrase: "Vital to the national interest." Congress did not define that very well; we left that to the Department. And I think this is part of your ongoing debate as to whether allowing DACA-eligible DREAMers to enlist would be vital to the national interest.

I think, when you talk to us about exclusivity, part of inclusivity, as well as diversity, when we look at the talent in this room, these young men and women, many of whom make great sacrifices, incidentally, to attend these military academies and high schools. I have met some of them who take more than one bus ride in the morning. Is there anybody who takes more than one bus ride to get to school in the morning? Take a look at the hands here. The sacrifices they are willing to make to attend these schools.

This kind of commitment of these young people, I think, would be a great asset to our military and vital to our national interest.

Can you comment on that phrase, "vital to the national interest," in the context of this hearing?

Ms. WRIGHT. Thank you, Senator.

So as you know, we do have a program, and it was established. It is the Military Accessions Vital to the National Interest, the term we use is "MAVNI." MAVNI was developed a while ago and has evolved slightly.

Right now we, the Department, in policy have determined that vital to the national interest phrase are for very specific skills; the skills are medical and language. And as you know, the language does not include Spanish. It includes a multitude of other languages. The reason that it does not include Spanish is because we have a number of Spanish speakers within our military.

But we think it is very important to take a look at the MAVNI program that was established a while ago, and see what that "vital to national interest" means. So the Department is not doing this in a vacuum because it is something that we need to be very inclusive. So we are talking to DHS. We are talking to the Department of Justice. We have a team that is an interagency team and it is also a team that is a DOD team.

We are joined at the hip, to use a colloquialism, with the White House because, as you know, our President is very concerned and also very pro when it comes to reforming immigration. And so, it is very important to us that we are in concert to things that the White House thinks is very important, and we do too.

So we are looking to move forward on what "vital to the national interest" means. Unfortunately, I cannot tell you what that means at this point in time. I would like to be able to give you a whole host of particular occupational specialties, but I cannot do this. We believe that we will have some sort of a more affirmative answer by the end of the summer 2014.

Senator DURBIN. If I can ask you this question, each year, how many men and women are recruited into our armed forces in the United States?

Ms. WRIGHT. I do not know exactly what that is. I know about 200,000 leave our Armed Forces, so I would suspect about 200,000 come in.

And right now, you made a comment in your opening speech, and I think both Congressmen also referenced it, you are right. If we take a look at the population of the United States, if 3 out of 10 individuals within the age limit to enlist are the ones that are eligible to enlist without any waiver, whether it is weight, or whether it is do they pass the academic tests, the ASVAB test, have they committed any sort of unlawful issue that would preclude them from admission.

You are 100 percent right. So if you take 10 average American kids that are out there in any high school, 3 of them only meet the requirements of our great armed forces to enlist.

Senator DURBIN. Well, the question I wanted to ask was if it is about 200,000 and we will put the exact number in for the record.

[The information follows:]

The number of men and women the Services have been asked to recruit in fiscal year 2014 is 248,625. This is the enlisted number (non-prior service and prior service) and it includes both the Guard and Reserve.

Senator DURBIN. But if it is about 200,000, the MAVNI program, which allows some exceptions here, I believe has an annual cap of 1,500.

So, it would seem to me that it is in the best interests of the United States and a strong military to expand that cap to make MAVNI a permanent program and to expand the program to include other skills other than medical skills and certain languages—STEM subjects, for example—so that we will be bringing into our military not only diversity through MAVNI, but filling some key spots.

There will be some young people here fresh out of high school, maybe out of college, who want to enlist, who can bring skills that are needed for today's military. It would seem to me that the President would be open to this. I would like to talk to him some more about it, and I hope that you will consider expanding MAVNI so that it may cover more than 1,500.

Ms. WRIGHT. Sir, we agree with you. We believe that we could certainly look at expanding it. We believe that there may be some other opportunities other than the medical and the language, and now we just need to get to what those are.

I know that the Chairman and the Joint Chiefs are very interested in this, and so this is one of the things that we are working with them to find out truly, how to expand it and the number we want to expand it to.

So we agree that the population of DACA is really a robust population that would give our organization the diversity, that would give our organization some of the best and brightest in America, that we could capitalize on, that they would make us a better organization, and we would make them, as the military has done for me, a better person.

Senator DURBIN. Last question I will ask you, I only ask you for the record, the critics of allowing DACA-eligible DREAMers, many of them, may acknowledge diversity, they may even acknowledge skills, but they question something very basic. And that is the commitment of young people who are not yet citizens to this country, their patriotism.

What has your experience been? What has our military experience been when it came to men and women who stepped up and said, "We are prepared to fight in the uniform of the United States of America, for this great Nation." What has our Nation's experience been with these people?

Ms. WRIGHT. Are you asking me that for the record or would you like me to answer?

Senator DURBIN. I would like you to answer.

Ms. WRIGHT. I will tell you those individuals who are not yet citizens who join our great ranks, our fleet and our force, I do not question. I personally do not question their patriotism. The Department does not question their patriotism. They have lived, died, fought, bled, sweat for our country.

Senator DURBIN. Madam Secretary, thank you. I feel exactly the same way and on the next panel, we are going to get a chance to meet some people who tell that story.

Thank you so much for coming out from Washington to Phoenix Military Academy.

Ms. WRIGHT. Thank you.

Senator DURBIN. If I could ask the next panel to step forward. The first witness on this panel is retired Colonel Kevin Kelley, Director of Military Instruction for Chicago Public Schools. Prior to his current position, he was the Senior Army Instructor at Roberto Clemente High School. Colonel Kelley served in numerous command and leadership positions in the Army, was public information officer for NATO headquarters, Director of Advertising and Public Affairs for the United States Army Recruiting Command. He is a graduate of the U.S. Military Academy at West Point.

Colonel Kelley, thank you for joining us today. Your written testimony will be part of the record. I invite you to give us your spoken testimony at this moment.

**STATEMENT OF COLONEL (RET.) KEVIN KELLEY, DIRECTOR OF MILITARY INSTRUCTION, CHICAGO PUBLIC SCHOOLS**

Colonel KELLEY. Thank you very much, Mr. Chairman, for holding this hearing and inviting me to testify here today.

I would like to take just one moment to acknowledge our other military academy that is also present in this room, that is our Marine math and science cadets who are here today.

Senator DURBIN. Thank you very much for being here.

Colonel KELLEY. Cadets, this is one of those teachable moments that you have, and so just to say, treasure this moment because this is a piece of history in the making and you are part of it.

I am Kevin Kelley and I am honored to be here to provide my testimony and relate my experience in working with high school students who are DREAMers.

I am a retired colonel in the United States Army and currently the Director of Military Instruction for Chicago Public Schools. In this role, I oversee the Junior Reserve Officer Training Corps programs in 45 public high schools in Chicago. Four military services are represented among those Junior ROTC programs; 36 of the programs are Army Junior ROTC, four Navy, three Marine Corps, and two are Air Force-sponsored. Six of these programs are in public school military academies like the one we are in today. We serve nearly 11,000 students enrolled in these Junior ROTC programs making Chicago the largest Junior ROTC presence of any school district in the country.

I have worked with Junior ROTC in Chicago for 11 years. I taught Junior ROTC for 8½ years at Roberto Clemente High School and 2½ years ago, moved to this current position overseeing the Junior ROTC programs in the district. I am also a State certified teacher in Illinois.

I think it is important at this point to note that the purpose of Junior ROTC is to instill in students the values of citizenship, service to the Nation, personal responsibility, and a sense of accomplishment.

Junior ROTC is well-suited to this mission with its teaching corps of retired military instructors who model these values and teach them to our students through a robust curriculum, and numerous co-curricular activities that include leadership development camps, academic and drill competitions, and service learning projects that support our communities. Our cadets provided over

125,000 hours of service to the Chicago community over the past year. And right behind me, there is a blood drive going on, just as another example of our service to the community.

Students enroll in Junior ROTC in Chicago public schools for many reasons. Some see the structure and opportunity for leadership development and are attracted to it. Some have aspirations to serve the Nation in one of the armed services and see this as preparation for that. And some take it as an alternative to physical education. Whatever the reason, the benefit they gain from the curriculum, and by participating in the co-curricular activities, support the mission of motivating them to be better citizens. And while it is not our purpose to recruit young people for military service, when there are young men and women who express a desire to serve, we are ready and willing to assist them to achieve that goal.

Our most recent analysis shows that about 5 percent of our 1,600 graduating seniors last year chose to serve in the military, either by enlisting directly into the active or reserve forces, by applying and receiving an appointment to one of our Nation's prestigious military academies, or by receiving a Senior ROTC Scholarship at the college they plan to attend.

Every year we are confronted with the reality that a certain segment of our graduating seniors will be unable to fulfill their dreams of serving the Nation in this way. We know of several students, some who are present in this school today, who would be qualified based on their test scores, physical fitness, and extracurricular participation to be competitive for appointment to a service academy such as West Point, but are unable to apply because of their immigration status. They would meet the highest enlistment quality benchmarks that are set for our military recruiting force, but if they approach the recruiter, they cannot even apply.

These are students who have lived in the United States all through their school years, many having arrived in this country as infants. They have accomplished great things in our schools, becoming leaders, scholars, and star athletes. But for many, when they graduate from high school, the roadblocks to their future pop up. We do not have the exact count on the number of undocumented students in our programs, but it is our estimate—and I would say it is a conservative estimate—that it is about 10 percent.

When we deny them the opportunities they have earned on their own merits—academic achievement, leadership and service in their communities—we may tie them to bonds of poverty they would otherwise escape. We increase the chances that they become a segment of society that draws on our social resources that, had they been given the chance, they would be contributing to in their own right.

Let me tell you about one of our stellar Junior ROTC graduates who wants to serve in the Marine Corps. Alejandro Morales, and you told his story on the senate floor last year, and he is present here today. Alejandro was our highest ranking cadet in the city of Chicago, earning the position of City Corps Commander. When he graduated in 2012 he dreamed of joining the Marine Corps. His status prevented him from fulfilling that dream. Today, Alejandro works a nightshift from 10 p.m. until 2 a.m. to earn money to attend a Chicago City College to continue his education.

A young man with a work ethic like this, and the drive to succeed would, without a doubt, be an outstanding Marine, but he cannot get past the front door of the recruiting station, and lives in a virtual no-man's-land because he does not have citizenship. And while he is disappointed, he is not deterred, and he continues to pursue his dream with the hope that one day the DREAM Act, and immigration reform, will be passed.

PREPARED STATEMENT

Recent testimony by the Department of Defense stated that nearly 75 percent of our youth are not qualified—and you referred to this in your opening statement—not qualified largely due to medical conditions and weight. One way to expand the pool of highly qualified applicants with a propensity for service is to offer DREAMers the opportunity to serve.

I believe that if DREAMers were authorized to enlist, the path for success for these students would open up, and they would become outstanding servicemen and servicewomen for our country. They would have the pathways to be all they want to be, and our Nation—their Nation—would be stronger and safer because of their service.

Thank you.

[The statement follows:]

PREPARED STATEMENT OF COLONEL (RET.) KEVIN KELLEY

Thank you Mr. Chairman for holding this hearing and for inviting me to testify today.

I am Kevin Kelley and I am honored to be here to provide my testimony and relate my experience in working with high school students who are DREAMers.

I am a retired Colonel in the United States Army and am currently the Director of Military Instruction for Chicago Public Schools. In this role, I oversee the Junior Reserve Officer Training Corps programs in 45 public high schools in Chicago Public Schools. Four military services are represented among those Junior ROTC programs, with 36 of the programs Army Junior ROTC, four Navy, three Marine Corps and two Air Force sponsored. Six of these programs are in public school military academies. We serve nearly 11,000 students enrolled in these Junior ROTC programs, making Chicago the largest Junior ROTC presence in any school district in the country.

I have worked with Junior ROTC in Chicago for 11 years. I taught Junior ROTC for 8½ years at Roberto Clemente High School and 2½ years ago moved to my current position overseeing all the Junior ROTC programs for the school district. I am also a State-certified teacher in Illinois.

I think it is important at this point to note that the purpose of JROTC is to instill in students the values of citizenship, service to the Nation, personal responsibility and a sense of accomplishment. Junior ROTC is well-suited to this mission with its teaching corps of retired military instructors who model these values and teach them to our students through a robust curriculum and numerous co-curricular activities that include leadership development camps, academic and drill competitions, and service learning projects that support our communities. Our cadets provided over 125,000 hours of service to the Chicago community over the past year.

Students enroll in Junior ROTC in Chicago Public Schools for many reasons: Some see the structure and opportunity for leadership development and are attracted to it; some have aspirations to serve the Nation in one of the armed services and see this as preparation for that; and some take it as an alternative to physical education. Whatever the reason, the benefit they gain from the curriculum and participating in co-curricular activities support the mission of motivating them to be better citizens.

And while it is not our purpose to recruit young people for military service, when there are young men and women who express a desire to serve, we are ready and willing to assist them in achieving that goal. Our most recent analysis shows that about 5 percent of our 1,600 graduating seniors last year chose to serve in the mili-

tary, either by enlisting directly into the Active or Reserve forces, by applying and receiving an appointment to one of our Nation's prestigious military academies, or by receiving a Senior ROTC Scholarship at the college they plan to attend.

Every year we are confronted with the reality that a certain segment of our graduating seniors will be unable to fulfill their dreams of serving the Nation in this way. We know of several students, some who are present in this school today, who would be qualified, based on their test scores, physical fitness, and extracurricular participation, to be competitive for appointment to a service academy such as West Point, but are unable to apply because of their immigration status. They would meet the highest enlistment quality benchmarks that are set for our military recruiting force, but if they approach the recruiter, they are told they cannot even apply.

These are students who have lived in the United States all through their school years, many having arrived in this country as infants. They have accomplished great things in our schools, becoming leaders, scholars, and star athletes. But for many, when they graduate from high school, the road blocks to their future pop up. We do not have the exact count on the number of undocumented students in our programs, but our estimate is that it is about 10 percent.

When we deny them the opportunities they have earned on their own merits—academic achievement, leadership and service in their community—we may tie them to bonds of poverty they would otherwise escape. We increase the chances that they become a segment of society that draws on our social resources that, had they been given the chance, they would be contributing to in their own right.

Let me tell you about one of our stellar Junior ROTC graduates who wants to serve in the Marine Corps. Alejandro Morales was our highest ranking cadet in the city, earning the position of City Corps Commander. When he graduated in 2012 he dreamed of joining the Marine Corps. His status prevented him from fulfilling that dream. Today, Alejandro works a night shift from 10 p.m. to 2 a.m. to earn money to attend a Chicago City College to continue his education. A young man with a work ethic like this and the drive to succeed would without a doubt be an outstanding Marine. But he cannot get past the front door of the recruiting station and lives in a virtual no-man's land because he does not have citizenship. And while he is disappointed, he is not deterred and he continues to pursue his dream with the hope that one day the DREAM Act and immigration reform will be passed.

Recent testimony by the Department of Defense stated that nearly 75 percent of our Nation's youth are not qualified for military service largely due to medical conditions and weight. The witness further stated that only 14 percent of our youth express a propensity for military service. (DOD Testimony to House Armed Services Committee, Military Personnel Subcommittee, January 16, 2014). One way to expand the pool of highly qualified applicants with a propensity to service is to offer DREAMers the opportunity to serve.

I believe that if Dreamers were authorized to enlist, the path for these students would open up and they would become outstanding servicemen and servicewomen for the country they love. They would have pathways to be all they want to be, and our Nation—their Nation—would be stronger and safer because of their service.

Senator DURBIN. Thank you very much, Colonel.

Our next witness is Sergeant Oscar Vazquez, Calvary Scout with the 1st Squadron, 40th Cavalry Regiment, 4th Infantry Brigade Combat Team (Airborne), 25th Infantry Division. He is stationed in the joint base Elmendorf-Richardson in Alaska. He is a combat veteran of the war in Afghanistan. Sergeant Vazquez would certainly take the prize for coming the greatest distance to join us today, and I thank him for that. But I would also tell you this, if I were asked to hold a hearing anywhere in the United States to make my argument for allowing DREAMers to enlist and could bring only one witness, it would be Sergeant Vazquez.

He graduated from Arizona State University with a degree in Mechanical Engineering, was recognized as one of the top three outstanding graduates in his class. I thank you for attending today. I look forward to hearing your testimony, but equally important, I look forward to these young students hearing an amazing life story.

Sergeant Vazquez.

**STATEMENT OF SERGEANT OSCAR VAZQUEZ, U.S. ARMY, JOINT BASE ELMENDORF-RICHARDSON**

Sergeant VAZQUEZ. Chairman Durbin, thank you for the opportunity to testify before the subcommittee.

My name is Sergeant Oscar Vazquez, and I currently serve as an Army paratrooper in the 4th Brigade Combat Team, 25th Infantry Division stationed in joint base Elmendorf-Richardson Alaska.

Before I begin, I would like for the record to reflect that the testimony I am to give is my own. I can only speak for myself and I do not speak for the United States Army, the Department of Defense, or any other Federal agency. Nor, can I speak for others with experiences similar to my own.

I was 12-years-old when my mother and I boarded a bus from our village in Mexico to the border. Although I did not make the choice to come to this country, this country quickly became my home.

Soon after 9-11, I saw the “Band of Brothers” miniseries, I knew then I wanted to join the Army. At Carl Hayden High School, I joined Junior ROTC. I loved the order and discipline, and was eventually awarded the Junior ROTC Officer of the Year award. I thought this would be the beginning of a career in the military, but when I met with the recruiter, I was told I could not enlist because I was undocumented. I left the meeting not knowing what to do or what was next. Knowing you cannot do something because of a piece of paper, or lack thereof, it was devastating.

I knew I had to figure something else to do with my life. Joining the robotics club opened new doors for me. Working with three of my fellow classmates, and under the supervision of two dedicated teachers, we entered the Marine Advanced Technology Education Center’s Remotely Operated Vehicle Competition. Even though we were high school students, we decided to enter the college level competition because if we lost, at least it would be against a university and not another high school.

I spent my senior year working with my team to design and build our underwater robot we named Stinky. That summer, we traveled to Santa Barbara, California for the competition. It was incredible to see other underwater robots and teams from MIT, and some of the best universities in the world. Beyond our wildest dreams, four undocumented kids from Arizona won the awards for Design Elegance, Technical Report, and the grand prize for Overall Winner of the competition.

Winning the underwater robotics competition was proof that we, as DREAMers, had something to offer to the country we always considered our home. Although I could not contribute to my country by joining the military, I decided I could contribute by becoming an engineer. I fell in love with Arizona State University during a middle school fieldtrip, but attending ASU came with its own challenges.

In 2006, the Arizona Legislature passed the law prohibiting undocumented students from receiving in-State financial aid. Even though Arizona had been my home for many years, I was not allowed to pay in-State tuition, and when this new law came into effect, my tuition tripled. Through private scholarships and working construction, I scraped money together to pay for college and sup-

port my family. Despite how difficult it was, I never gave up on the idea of getting a degree, and at graduation, it paid off.

In 2009, I was one of the three students introduced as an outstanding graduate during graduation, sitting only a few feet away from President Obama. But afterwards, I did not know what the future held. I had a degree in mechanical engineering, but no one would hire me in this field without a legal status. I did not want to be stuck in a low end job and not be able to apply my degree to its full potential to contribute to my country and support my family.

In the end, my wife and I decided that I should go back to Mexico, a country that I left as a child, and apply to reenter the United States legally. Even though my wife Karla, and daughter Samantha, are U.S. citizens, the law said that I was barred from coming back to the United States for 10 years. My wife and I knew it would not be easy, but we wanted to do this while my daughter was still young.

It was frustrating to be away from the family and not be able to see my daughter grow up. Every few weeks, when my wife had a few days off, Karla would bring Samantha to make the 3 hour drive to visit me. When they first started visiting, my daughter did not recognize me, and it was heartbreaking as a parent for your child not to know who you are.

I applied for a waiver of the 10-year bar so I could come back home, but the Government denied the request. They said that we had not documented enough hardship for my wife and daughter due to my absence. I would have to wait another year for the Government to evaluate my case. But thanks to you, Senator Durbin, the Department of Homeland Security took another look at my case and granted my waiver. Three hundred sixty-five days after I left the United States, I was able to return as legal resident.

Soon after I came back to the United States in August 2010, I decided to pursue my first dream and enlist in the United States military, in the Army. I started basic training in February 2011. I wanted to fight for the country that raised me. Saying I loved this country was not enough. I will let my actions speak for themselves.

In May, shortly before I finished basic training, I became a U.S. citizen. A couple of months later, I was deployed to Afghanistan. Serving in the Army fulfilled my dream of going to airborne school and jumping out of planes like they did in "Band of Brothers". I looked forward to going to Afghanistan because I wanted to go into combat and protect my country. Serving in the Army allowed me to contribute more fully to the country and make it safer. It has been a great honor to serve my country.

Today, our son, Oskar Maximus, is 2-years-old. He was born the day after I returned from deployment R&R. Samantha is now 5-years-old and loves kindergarten. Although we have grown to love Alaska, we look forward to coming back to Arizona this summer, where I will apply what I learned at ASU and the Army to continue my career in mechanical engineering.

#### PREPARED STATEMENT

Over the years, I have met many DREAMers who also want to join the military and serve the country that they love. I sincerely

hope that one day they will be able to follow in my footsteps and enlist. I believe my story is just one example of what DREAMers can do if they are given the chance to come out of the shadows and give back to our country.

Thank you again for the opportunity to testify. I look forward to answering any of your questions.

[The statement follows:]

PREPARED STATEMENT OF SERGEANT OSCAR VAZQUEZ

Chairman Durbin, thank you for the opportunity to testify before the subcommittee. My name is Sergeant Oscar Vazquez. I was 12 years old when my mother and I boarded a bus from our village in Mexico to the border. Although I did not make the choice to come to America, this country quickly became my home.

Ever since I saw the "Band of Brothers" miniseries, I knew I wanted to join the Army. At Carl Hayden High School, I joined JROTC. I loved the order and discipline and was eventually awarded the JROTC Officer of the Year. I thought this would be the beginning of a career in the military. But when I met with a recruiter, I was told that I couldn't enlist because I was undocumented. I left that meeting not knowing what to do or what was next. Knowing you can't do something because of a piece of paper or lack thereof is devastating.

I knew I had to figure out what else I could do with my life. Joining the robotics club opened new doors for me. Working with three of my fellow classmates and under the supervision of two dedicated teachers, we entered the Marine Advanced Technology Education Center's Remotely Operated Vehicle Competition. Even though we were high school students, we decided to enter the college level competition because if we lost, at least it would be against a university and not another high school.

I spent my senior year working with my team to design and build our underwater robot, Stinky. That summer, we traveled to Santa Barbara, California for the competition. It was incredible to see other underwater robots and teams from MIT and some of the best universities in the world. Beyond our wildest dreams, four undocumented kids from Arizona won the awards for Design Elegance, Technical Report, and the grand prize for Overall Winner of the competition.

Winning the underwater robotics competition was proof that we as Dreamers had something to offer the country we always considered to be our home. Although I could not contribute to my country by joining the military, I decided I could contribute by becoming an engineer. I fell in love with Arizona State University during a middle school field trip, but attending ASU came with its own challenges. In 2006, the Arizona Legislature passed a law prohibiting undocumented students from receiving in-State financial aid. Even though Arizona had been my home for many years, I wasn't allowed to pay in-State tuition. When this new law went into effect, my tuition tripled. Through private scholarships and working construction, I scraped the money together to pay for college and support my family. Despite how difficult it was, I never gave up on the idea of getting a degree, and at graduation it paid off.

In 2009, I was one of three students introduced as an outstanding graduate during graduation, sitting only feet away from President Obama. But afterwards, I didn't know what the future held. I had a degree in mechanical engineering, but no one would hire me in this field without legal status. I didn't want to be stuck in a low-end job and not be able to apply my degree to its full potential to contribute to my country and support my family.

In the end, my wife and I decided that I should go back to Mexico—a country I left as a child—and apply to re-enter the United States legally. Even though my wife, Karla, and daughter, Samantha, are U.S. citizens, the law said that I was barred from coming back to the United States for 10 years. My wife and I knew it wouldn't be easy, but we wanted to do this while my daughter was still young.

It was frustrating to be away from my family and not be able to see my daughter grow up. Every few weeks, when my wife had a few days off, Karla would bring Samantha and make the 3-hour drive to visit me. When they first started visiting, my daughter didn't recognize me after not seeing me for so long. It is heartbreaking as a parent for your child to not know who you are.

I applied for a waiver of the 10-year bar so I could come back home, but the government denied the request. They said that we hadn't documented enough hardship for my wife and daughter due to my absence. I would have to wait another year for the government to evaluate my appeal. But thanks to Senator Durbin, the De-

partment of Homeland Security took another look at my case and granted my waiver. Three-hundred and sixty one days after I left the United States, I was able to return as legal resident.

Soon after I came back to the United States in August 2010, I decided to pursue my first dream and enlist in the United States Army. I started basic training in February 2011. I wanted to fight for the country that raised me, I wanted to prove my allegiance by my actions. In May, shortly before I finished one station unit training, I became a U.S. citizen. A couple of months later, I was deployed to Afghanistan with the 4th Brigade Combat Team of the 25th Infantry Division. Serving in the Army fulfilled my dream of going to airborne school and jumping out of planes like they did in "Band of Brothers."

It has been a great honor to serve my country. I looked forward to going to Afghanistan because I wanted to go into combat and protect the United States. Serving in the Army allowed me to contribute more fully to this country and make it safer.

Today, I am stationed at the Joint Base Elmendorf-Richardson in Alaska. I am a cavalry scout with the 1st Squadron, 40th Cavalry Regiment, 4th Infantry Brigade Combat Team (Airborne), 25th Infantry Division. Our 2-year-old son, Oskar Maximus, was born the day after I returned home for R&R from Afghanistan. Samantha is now 5 years old and loves kindergarten. Although we have grown to love Alaska, we are looking forward to coming back home to Arizona this summer, where I will apply what I learned at ASU and the Army to continue my career in mechanical engineering.

Over the years, I have met many Dreamers who also want to join the military and serve the country that they love. I sincerely hope that one day they will be able to follow in my footsteps and enlist. I believe my story is just one example of what Dreamers can do if they are given the chance to come out of the shadows and give back to our country.

Thank you again for the opportunity to testify. I look forward to answering your questions.

Senator DURBIN. Thank you.

Senator DURBIN. I told you it was an amazing story. They ought to make a movie out of it. In fact, they are and we look forward to seeing it.

Gregory Chen is the Director of Advocacy for the American Immigration Lawyers Association. Previously, he was Director for Legislative Affairs from Lutheran Immigration Refugee Service and Director for Policy and Advocacy for the U.S. Committee for Refugees and Immigrants. A graduate of Harvard and New York University Law School, Mr. Chen clerked for the Honorable Stephen Reinhardt of the 9th Circuit U.S. Court of Appeals.

Thank you for joining us, and please proceed.

**STATEMENT OF MR. GREGORY CHEN, DIRECTOR OF ADVOCACY,  
AMERICAN IMMIGRATION LAWYERS ASSOCIATION**

Mr. CHEN. Thank you, Chairman Durbin.

As Director of Advocacy of AILA, I am honored to testify here at Phoenix Military Academy, and honestly, inspired to be able to be part of this important hearing. And I also want to thank you, Senator Durbin, for your tireless efforts to win immigration reform, not just with these incredible efforts of the senate bill last year, but your continuing efforts to get the DREAM Act passed. AILA supports those and we will continue to fight alongside you.

AILA runs the Military Assistance Program which has assisted over 700 service members and their families. Through the MAP program, we have come to understand the incredible contributions and the sacrifices that foreign service members have made to our Nation, as well as the challenges they face as immigrants serving in the military.

To begin with, it is well-recognized that the U.S. armed forces need to recruit more immigrants. According to a 2011 Center for Naval Analyses research, immigrants add valuable diversity, immigrants often speak other languages than English, and immigrants also perform extremely well often having significantly lower attrition rates than other recruits.

The U.S. military has taken important steps to recruit immigrants. In addition, AILA has two changes as recommendations that could be implemented immediately.

First, the Department of Defense can interpret enlistment law to allow recipients of DACA to enlist just as you have already suggested. Current law restricts enlistment to citizens and lawful permitted residents, by and large. But the law, as already has been mentioned, also gives the military broad authority to enlist other immigrants if it is, quote, “vital to the national interest,” a term used in the statute.

The military’s current use of this authority excludes DACA recipients, but I am not aware of any statutory definition, or legislative history, that restricts the meaning of “vital to the nation interest” in the way the military is currently interpreting it. So DOD, the Department of Defense, can immediately broaden its interpretation to encompass DACA recipients.

DACA beneficiaries are U.S. educated, they have good moral character, they reside in the United States for 5 years or more, and they can meet other enlistment requirements such as passing the DHS background check, and the NCIC criminal check. As of March 2014, more than half a million young people have been granted DACA; that is a huge pool of potential applicants. Increasing the military enlistment pool to include those granted DACA is vital to our Nation’s ability to maintain a highly qualified, diverse, and inclusive all-volunteer force.

Second, the Department of Defense should clarify that an otherwise qualified applicant can enlist even if he or she lives with someone who is unauthorized, or has a dependent who is unauthorized, or is married to someone who is unauthorized.

The Army, Marines, and Navy currently bar such individuals from enlistment, however. Their position is apparently based on a view that a person has committed the crime of harboring an alien by merely living with someone who is undocumented. AILA strongly disagrees with that view.

No U.S. circuit court of appeals, these are the Federal circuit courts, has found that living with an undocumented person with knowledge of that person’s status, is sufficient to constitute harboring. And nearly all of the courts have ruled that more evidence of harboring is needed than just cohabitation. So it makes little sense that the U.S. military is taking a view contrary to the overwhelming weight of Federal court jurisprudence. The armed forces have the legal authority to allow these people to enlist and it should do so.

Now excluding from enlistment those individuals who live with an unauthorized person also runs counter to the current practices of both the Department of Defense and DHS.

First of all, AILA’s MAP program has assisted many service members who have undocumented spouses. Typically, the Depart-

ment of Defense does not discharge those service members for harboring that alien. But it actually helps them and their spouse in working through that situation.

With respect to the Department of Homeland Security, secondly, DHS supports military personnel who have undocumented family by granting them parole and has set up a new policy, as of just this past November, regarding parole for those families and the undocumented family member.

AILA's MAP has helped several individuals in such cases such as a Navy hospital man named David, whose wife, Mary, was undocumented. Mary was brought to the United States when she was 6 months old. They met in high school and got married after he enlisted. After training, David was deployed to Afghanistan.

Now, he wrote in his letter supporting his wife's application for parole, quote, "The truth is that the separation from my beloved wife has already been one of the most difficult things I have ever done. I cannot imagine a level of hardship and anxiety I would face if she would have to go back to Mexico." Now eventually, Mary was granted parole, and that gave them both much greater peace of mind.

So it makes no sense that both Department of Defense, Department of Homeland Security, as well as the Federal courts all have indicated that the Department of Defense has the legal authority to do this and the policy to support it. So people who have somebody who is undocumented, that is their spouse or is a dependent, can certainly be enlisted.

Finally, in addition to steps that the Department of Defense can take, AILA recommends that congress take real action. First, it should enact the DREAM Act as soon as possible. DREAM Act could be done alone or as part of the Comprehensive Immigration Reform bill that the senate passed just last year.

In addition to offering legalization for a large population of young, unauthorized people, the DREAM Act would enable the U.S. military to draw on a larger, highly qualified, and diverse pool of candidates.

AILA also supports other bills like the H.R. 435 bill in the House sponsored by Congressman Coffman, which would broaden the pool of those eligible to enlist.

#### PREPARED STATEMENT

In closing, historically, immigrants have made enormous contributions to our Nation's military, fighting in every war since the Revolution. Many have given their lives. Many have become citizens and some even were undocumented as service members. Immigrants are patriotic and want to serve, including many of those who are here with us today.

Now is the time for our executive and legislative branches to do everything they can to create more opportunity for immigrants to serve, and in so doing, meet the needs of our Nation better.

Thank you.

[The statement follows:]

## PREPARED STATEMENT OF GREGORY CHEN

Mr. Chairman and distinguished members of the committee: I am Greg Chen, Director of Advocacy of the American Immigration Lawyers Association (AILA). I appreciate the opportunity to appear before you today concerning the issue of the military enlistment of immigrants and the important role immigrants have played in the U.S. armed forces.

AILA is the national bar association of immigration lawyers and has more than 13,000 attorney and law professor members. For more than 60 years, the association has worked to promote justice, to advocate for fair and reasonable immigration law and policy, and to advance the quality of immigration and nationality law and practice.

In 2008, AILA established the Military Assistance Program (MAP) to provide immigration legal services to active duty members of the U.S. armed forces, as well as to reservists, veterans and their immediate families. AILA MAP operates with the support of the Judge Advocate's General Legal Assistance Office (JAG) and assists JAG attorneys with complex immigration law questions. Since its founding, AILA MAP has assisted more than 700 servicemembers and their families, and has about 375 volunteer immigration lawyers who handle cases on a pro bono basis.

AILA MAP's goal is to support the morale, welfare, and readiness of U.S. service men and service women, who in many instances are deployed while leaving a family member behind, often in a tenuous or uncertain immigration status. Through MAP, AILA attorneys have come to understand the incredible contributions and sacrifices foreign-born servicemembers have made to our Nation's military as well as the challenges they face as immigrants serving in the military.

## IMMIGRANT CONTRIBUTIONS TO THE U.S. MILITARY

For decades, indeed for centuries and in every war fought by the United States, immigrants have made critical contributions to our nation's military. Immigrants have been eligible to enlist since the Revolutionary War and have served with great distinction. In June 2010, approximately 16,500 noncitizens were serving in the military, making up 1.4 percent of the enlisted force.<sup>1</sup> The total percentage of immigrants—including both noncitizen and citizens—serving in the military is higher than that figure since many immigrant servicemembers have naturalized. In recent years even more foreign-born servicemembers became citizens and did so at a faster rate due to changes in naturalization rules to expedite the process.<sup>2</sup>

It has long been an American tradition that service in the armed forces can lead to U.S. citizenship. Immigrants who have served in the U.S. military and by so doing earned their citizenship include Alfred Rascon, an undocumented immigrant from Mexico who won the Medal of Honor during the Vietnam War; he later became a U.S. citizen and eventually the director of the Selective Service System. Immigrants also have been promoted to the highest ranks of the U.S. military; most notable is General John Shalikashvili, former chairman of the Joint Chiefs of Staff, who came to the United States from Poland shortly after World War II.

Even undocumented immigrants have contributed to the Armed Forces. For example, an AILA MAP attorney, Neil O'Donnell, represented Luis Lopez, who served in the Army despite being undocumented and was later assisted by his commanding officer to obtain citizenship. This is a summary of the case:

*Luis Lopez was 8 years old in 1990 when his family came to the United States from Mexico on tourist visas. The family overstayed the visas. Luis visited an Army recruitment office after finishing high school, but was asked for a green card or a birth certificate. Luis gave the recruiter a fake "birth abstract" that stated he was born in Los Angeles County. He served in the Army and was deployed to Iraq twice and then to Afghanistan. During his service, he was awarded more than a dozen accolades. He was given commendations for his service in Afghanistan as a section chief for an airborne field artillery battalion's radar system.*

*In 2010, he informed his supervisors that he was an unauthorized immigrant and took steps to apply for citizenship. His application was based on the Immigration and Nationality Act of 1952 which says that foreign nationals who have*

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<sup>1</sup> "Population Representation in the Military Services: Fiscal Year 2010 Summary Report," p. 39, Department of Defense, <http://prhome.defense.gov/portals/52/Documents/POPREP/poprep2010/summary/PopRep10Summ.pdf>.

<sup>2</sup> Molly F. McIntosh and Seema Sayala, with David Gregory. *Non-Citizens in the Enlisted U.S. Military*. CNA Research Memorandum D0025768.A2/Final, November 2011, <https://www.cna.org/sites/default/files/research/Non%20Citizens%20in%20the%20Enlisted%20US%20Military%20D0025768%20A2.pdf>.

*“served honorably” during wartime may be naturalized “whether or not [they have been] lawfully admitted to the United States for permanent residence.” Luis’s commanding officer provided a recommendation letter to U.S. Citizenship and Immigration Services (USCIS) that Luis be awarded citizenship. Luis was granted citizenship and naturalized in 2011.*

Immigrant servicemembers are loyal to the United States and heed the call to fight for the principles of freedom and democracy just as native-born soldiers do. For noncitizens who can meet requirements to enlist and serve honorably, serving in the U.S. military offers a unique path to citizenship. Through service immigrants prove their allegiance to their new homeland and integrate more quickly into American society. Their service carries on a proud and unquestioned tradition in our Nation of immigrants.

#### RECRUITING MORE IMMIGRANTS WILL HELP THE U.S. MEET ITS NEEDS

The need for a broad, highly qualified and diverse pool of talent to join the military has been widely recognized. In Army magazine’s April 2014 volume, Major General Allen Bachelet, the commanding general of the U.S. Army Recruiting Command wrote: “[Y]outh interest in military service is decreasing, and fewer than one in four young people meet enlistment qualifications.” Today only 40 percent of young people have ever spoken with a military recruiter, down from 60 percent 10 years ago. Major General Bachelet called for more aggressive recruiting policies from a broader talent pool and for changing the law to permit the enlistment of young undocumented immigrants.

Previous reports reached similar conclusions. In April 2005, CNA published a comprehensive report on immigrants in the military. The report noted that immigrants add valuable diversity to the armed forces and perform extremely well, often having significantly lower attrition rates than other recruits. The report also pointed out that “much of the growth in the recruitment-eligible population will come from immigration.” The February 2006 Quadrennial Defense Review highlighted the key role that immigrants play in the Department of Defense (DOD) and called for increased recruitment in all branches of the military of immigrants who are proficient in languages other than English—particularly Arabic, Farsi, and Chinese.

In 2010, DOD published its annual report, “Population Representation in the Military Services,” and examined the noncitizen population and eligibility-to-serve criteria, such as being a lawful permanent resident, having a high school diploma, and having English-language proficiency. The report estimated that 1.2 million noncitizens in the prime recruiting ages of 18 to 29 would have met the eligibility criteria in 2010.<sup>3</sup> Moreover, an estimated 85 percent of the eligible noncitizen population spoke a foreign language at home (39 percent Spanish, 5 percent Chinese, 10 percent another Asian or Pacific Island language, 15 percent languages from India, and 4 percent Middle Eastern languages).<sup>4</sup>

#### IMMIGRATION AND MILITARY ENLISTMENT LAW

Recognizing the important role immigrants play in the military, Congress has passed laws that enable the foreign-born to enlist and that facilitate their naturalization. Since 1952, the Immigration and Nationality Act has given broad authority to the president to expedite citizenship for immigrant U.S. military servicemembers. In the past two decades, the government has used this authority to help servicemembers naturalize by reducing wait times, waiving residence and physical presence requirements, and enabling naturalization to take place on completion of boot camp.

In 2003, the Army launched a program to recruit and train linguists and interpreters to address the severe shortage of U.S. military linguists who are fluent in dialects common to Iraq and Afghanistan. Immigrants have been crucial to the program’s success: Two-thirds of program recruits were legal immigrants; while one-third were U.S. citizens. In 2006, Congress created a special visa program for immigrant interpreters who provided assistance as civilians to the armed forces in Iraq and Afghanistan.

In 2006, Congress substantially changed the military enlistment statutes, repealing the separate statutes that had previously governed enlistment in each of the services and replacing them with a single statute. The 2006 law establishes a bar against unauthorized individuals enlisting in the military and requires lawful per-

<sup>3</sup>“Population Representation in the Military Services: fiscal year 2010 Summary Report,” p. 41, Department of Defense; <http://prhome.defense.gov/portals/52/Documents/POPREP/poprep2010/summary/PopRep10Summ.pdf>.

<sup>4</sup>Ibid.

manent resident status for enlistment. The law allows for an exception for those whose enlistment is deemed “vital to the national interest.” This provision is discussed further below.

#### IMPROVING GOVERNMENT POLICY AND PRACTICE ON IMMIGRANT ENLISTMENT

Current military practices could be significantly improved to better meet the needs of the U.S. Government to recruit and maintain a diverse and highly qualified professional military. AILA recommends two changes that can be implemented immediately:

- Broaden the interpretation of “vital to the national interest” under 10 USC § 504.
- Clarify the enlistment eligibility of individuals who live with or have unauthorized spouses and dependents.

#### *Interpretation of “Vital to the National Interest” Under 10 USC §504*

The 2006 uniform enlistment practices statute effectively restricts immigrant enlistment to lawful permanent residents. But the statute also includes a broad exception where a service secretary has determined that a person’s enlistment is “vital to the national interest.” The 2006 law gave the secretaries of the separate services authority to waive the requirement that a person seeking to enlist have U.S. citizenship or lawful permanent resident status if they determine “that such enlistment is vital to the national interest.” Using this statutory authority, in 2008, Defense Secretary Gates authorized a new pilot program titled “Military Accessions Vital to the National Interest” (MAVNI), under which up to 1,000 legal noncitizens with critical skills would be allowed to join the U.S. armed forces each year. The annual quota has since been increased though it is still limited to 1,500.

Under the MAVNI program, the Army, Navy, and Air Force began recruiting certain noncitizens who were not lawful permanent residents but were nonetheless lawfully present in the United States. So far, however, MAVNI has been restricted to individuals who are licensed healthcare professionals in certain medical specialties or fluent in one of 35 strategic languages—not including Spanish. MAVNI also restricts enlistment to persons who hold specific non-immigrant visa statuses, temporary protected status, or asylee or refugee status. Persons granted deferred action are not eligible for MAVNI. Unfortunately, this interpretation precludes an enormous pool of foreign-born individuals from enlisting.

DOD can immediately broaden the interpretation of “vital to the national interest” under 10 USC § 504(b)(2), which states that the secretary of defense “may authorize the enlistment of a person not described in paragraph (1) if the Secretary determines that such enlistment is vital to the national interest.” AILA is not aware of any statutory definition or legislative history that would restrict the meaning of “vital to the national interest” to the two MAVNI categories (individuals with certain language skills and healthcare professionals) that DOD has announced to date, or to the specific immigration statuses that DOD has selected for the MAVNI program. Accordingly, it is at the discretion of the service secretaries to use the “vital to the national interest” language to meet any and all recruitment needs.

Specifically, DOD can use the “vital to the national interest” clause to enlist those who have received grants of deferred action under the Deferred Action for Childhood Arrivals (DACA) initiative, without forcing those with DACA to fit within the narrow constraints of the MAVNI program. As of March 2014, more than half a million people had been granted DACA. Among them are these exemplary individuals who are well qualified to serve their country in the Armed Forces:

*Juan Rios was brought to the United States from Mexico when he was 10. Juan was a leader in Air Force JROTC. He was group commander and armed drill team captain, and rose to the rank of Cadet Lieutenant Colonel. Juan dreamed of attending the Air Force Academy, but he was unable to do so because he is undocumented. Instead, Juan enrolled in Arizona State University. In 2010, he graduated with a degree in aeronautical engineering.*

*Gaby Pacheco was brought to the United States from Ecuador when she was 7 years old. She was the highest-ranking JROTC student and received the highest score on the military aptitude test at her high school in Miami, Florida. The Air Force tried to recruit Gaby, but she was unable to enlist because of her undocumented status. Gaby earned three degrees from Miami Dade College, where she was elected student government president and statewide student body president.*

*Jhon Magdaleno was brought to the United States from Venezuela when he was 9 years old. During high school, he was the 4th highest ranking officer and Commander of the Air Honor Society in his JROTC unit. Jhon is currently an*

*honor student majoring in Chemical and Biomolecular Engineering at the Georgia Institute of Technology, one of the top engineering schools in the country. He works in a biomedical engineering lab at the university researching glaucoma. He has also recently secured an internship with Eastman Chemical Company.*

The enlistment of people under DACA is clearly vital to the national interest because DACA beneficiaries are U.S.-educated persons who have good moral character, who have resided in the United States for at least 5 years, and who can meet other military enlistment standards, including passing a DHS background check and a National Crime Information Center check. Increasing the military recruitment pool to include those granted DACA is vital to our Nation's ability to maintain a highly qualified, diverse and inclusive all volunteer force.

#### *Enlistment Eligibility of Individuals With Unauthorized Spouses and Dependents*

DOD should clarify that an individual is not barred from enlistment if he or she lives with, or is married to, an unauthorized person or has unauthorized dependents. Last year Kathleen Welker of the Army Recruiting Command confirmed that Army policy bars these individuals from enlistment.<sup>5</sup> The Marine Corps and Navy have specific written regulations barring the enlistment of such persons. The bar against these individuals is allegedly based on the view that a person has committed the crime of harboring under the Immigration and Nationality Act, 8 USC § 1324, if he or she merely co-habits with someone who is not authorized to be in the United States.

AILA strongly disagrees with this view. The harboring statute states in part that it is a punishable offense to:

knowingly[ly] or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, conceal[], harbor[], or shield[] from detection, or attempt[] to conceal, harbor, or shield from detection, such alien in any place, including any building or any means of transportation. [emphasis added]

No U.S. circuit court of appeals that has considered the issue has found that cohabitating with someone of unauthorized status, with knowledge of his or her unauthorized status, is sufficient to constitute harboring. The U.S. Court of Appeals for the Third Circuit has defined "harboring" as conduct "tending to substantially facilitate an alien's remaining in the United States illegally *and to prevent government authorities from detecting the alien's unlawful presence.*" *Lozano v. City of Hazelton*, 620 F.3d 170, 223 (3d Cir. 2010) (emphasis in original). The Second Circuit and Eleventh Circuit have applied similar definitions. See *United States v. Kim*, 193 F.3d 567, 574 (2d Cir. 1999) and *United States v. Chang Qin Zheng*, 306 F.3d 1080, 1086 (11th Cir. 2002). Although not all the circuit courts of appeals have held that a showing of concealment is necessary to meet the definition of harboring, I am not aware of any Federal court in which someone has been convicted of harboring merely because the individual lived with an unauthorized person with knowledge of that person's status.

It makes little sense that the various branches of the military would take a view contrary to the weight of Federal court jurisprudence. Indeed, the current Army, Navy, and Marine Corps policy is a recent development that had not previously been applied by any of these service branches. The secretary of each of the services has the authority to allow otherwise qualified applicants who live with or are married to unauthorized persons to enlist.

Excluding from enlistment those individuals who live with an unauthorized person also runs counter to the policies and practices of both DOD and DHS. DOD does not discharge Americans from military service when their spouses and children fall out of status. AILA MAP has assisted many spouses of servicemen or servicewomen who come to the United States on a visitor visa, or another kind of visa, and then fall out of status by overstaying the visa. In such cases, the armed forces do not discharge the service member out of concern that he or she is committing the criminal act of harboring an unauthorized person.

In November 2013, USCIS issued a memorandum on the granting of parole requests made on behalf of the spouses, children, and parents of active-duty military personnel, reserve members, and veterans, when those spouses, children and parents are already physically present in the United States without inspection or ad-

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<sup>5</sup> Transcript of NPR interview by Jude Joffe-Block with Kathleen Welker broadcast on December 16, 2013. <http://hereandnow.wbur.org/2013/12/16/military-undocumented-family>. See also "New Immigration Hope For Military Dependents, But Enlistment Hurdles Remain," *Fronteras*, November 20, 2013, <http://m.fronterasdesk.org/content/9256/new-immigration-hope-military-dependents-enlistment-hurdles-remain>.

mission. The parole-in-place policy is intended to protect military personnel who have undocumented spouses, children or parents by easing the stress and anxiety placed on military service members and veterans when their family members lack immigration status. The memorandum notes that “[military preparedness can potentially be adversely affected if active members . . . who can be quickly called into active duty, worry about the immigration status of their spouses, parents and children.” The USCIS parole-in-place policy makes it clear that these military personnel are not viewed as harboring an unauthorized person. Moreover, the policy is designed to support them and their families and allow the unauthorized persons to obtain valid immigration status.

AILA MAP has helped several individuals in these circumstances. For example, the following case was handled by attorney Grant Godfrey:

*David is a U.S. citizen Navy hospitalman and the son of a Navy service-woman. David's wife Mary, who was undocumented, was brought to the United States when she was 6 months old. David and Mary met in high school and got married a year later after he enlisted. Mary lived with David's mother as David was stationed around the country for training and then was deployed to Afghanistan. Because of the difficulties of getting documents from David while he was in a warzone, the filing of Mary's application for parole-in-place was delayed until David returned. Mary was then granted parole-in-place; 6 months later, she received her green card. Mary has no criminal history other than a ticket for driving without headlights and for driving without a license for which she paid the fine in full.*

*In his letter in support of his wife's application for parole-in-place, David wrote: “In the event that my wife was forced to return to Mexico and were subject to the 10-year bar, then I would make every effort to move to Mexico so I could be with her. Since I signed a 5 year enlistment contract with the Navy, before I could do so I would either have to wait that out or I would have to try to get discharged. I also would be giving up my military career to move to a different country with an unfamiliar culture that speaks a language I don't understand. I imagine that my job prospects would be very bad, and I have a great fear that my status as an American, not to mention a military veteran, would make me a target for violence. The truth is that the separation from my beloved wife has already been one of the most difficult things I have ever done. If her application were denied, then what has been a very trying situation would only be compounded, and I cannot imagine the level of hardship and anxiety I would face if she would have to face the uncertainty of going back to Mexico, not to mention the uncertainty inherent in my own efforts to reunite with her in Mexico.”*

#### REFORMING IMMIGRATION AND MILITARY ENLISTMENT LAW

AILA recommends that Congress reform both immigration law and military enlistment law to expand the opportunities for immigrants to enlist. AILA supports passage of the Development, Relief, and Education for Alien Minors (DREAM) Act, or a comparable proposal enacted separately or as part of a broader immigration bill such as the one included in the Senate-passed bill, S. 744. The DREAM Act would allow young people who have grown up in this country, have graduated from high school, have been acculturated as Americans, and have no serious criminal record to go to college or to serve in the military and thereby legalize their immigration status. In addition to offering legalization for a large population of young unauthorized people, a goal that AILA supports for its own sake, the passage of the DREAM Act would enable the U.S. military to draw on a larger, highly qualified and diverse pool of candidates that will be essential to meeting the military's and America's needs.

AILA also supports H.R. 435, the Military Enlistment Opportunity Act, a bipartisan bill sponsored by Congressman Mike Coffman (R-CO). The Military Enlistment Opportunity Act would broaden the pool of those eligible to enlist in the U.S. armed forces beyond citizens and lawful permanent residents, and those who are eligible under the current MAVNI program. The bill would allow persons who have resided continuously in a lawful status in the United States for at least 2 years, as well DACA recipients, to enlist. The measure further provides a path to lawful permanent status for both categories of enlistees by amending the current process.

Thank you again for the opportunity to address this important topic.

Senator DURBIN. Thank you, Mr. Chen.

Our next witness is Cadet Command Sergeant Major Mario Rodriguez, a senior at Phoenix Military Academy. He was selected as Cadet Command Sergeant Major through a very comprehensive,

competitive selection system. CSM Rodriguez has a 4.52 GPA. His goal in life includes attending the U.S. Naval Academy.

Cadet Command Sergeant Major Rodriguez, the floor is yours.

**STATEMENT OF SERGEANT MARIO RODRIGUEZ, CADET COMMAND  
SERGEANT MAJOR, PHOENIX MILITARY ACADEMY**

Cadet Sergeant RODRIGUEZ. I am Cadet Command Sergeant Major Mario Rodriguez. I am a cadet in Chicago's Phoenix Military Academy High School and, sir, I am an American. I do not possess the official documents required by the Department of Homeland Security but, sir, I am truly an American.

I am an American because I love my country. I am an American because I have respected and followed all of my country's laws. I am an American because I have dedicated myself to doing all that I can to make my community and my county a better place. I am an American because I am ready and willing to support and defend our Nation's Constitution against all those who threaten it. I am an American because citizenship rests more in one's devotion and love for their country, than a mere accident of birth.

My becoming of an American began when I was 8-years-old. Upon arriving in the United States, my parents turned their backs on everything they had secured for their family in Mexico, and decided to raise my brother and I with the mere notion of earning a higher paycheck so that they could provide us with a better life.

Like many young children, I had notions and visions of becoming an astronaut or a cowboy, but I knew, always knew, that I wanted to become someone who positively influenced and impacted the lives of many others. At that point in my life, however, I was afraid to be different and stand out from among my peers. Later, I learned to utilize my weaknesses as guides for my academic and social transformation.

Living in the United States, I had the misfortune of seeing my parents struggle due to their lack of identification. This has cost them jobs and raises at work, and prevented them from fully participating as citizens.

Recently, this lack of paperwork, or forms of identification, prevented me from expanding my own education. I had the grades, the GPA, the extracurricular activities to apply to summer programs, but upon applying for financial aid, the organizations asked questions I had no answer to. I could not prove my status, provide official identification, or provide the necessary paperwork for aid.

With the help of my mentors from a college preparatory program called Minds Matter, my counselors, my librarian, I sought to create my official identity. The few months after turning eighteen were busy. I obtained an ID from the Mexican Consulate, a bank account, Deferred Action status, my work permit, and a Social Security number. These accomplishments signify not only my determination to excel in a country where the law becomes a challenge for immigrants from becoming active participants in its Government, they also demonstrate my ability to accomplish so much in a very short time, period of time.

It is not the end, however. Next in line are my driver's license, State I.D., my passport and, beyond that, the pursuit of the American status that will grant me an identity other than that of an

alien immigrant. I have learned to utilize the available gateways to solve my problems legally and, though it has been a rough path, I am glad that I am preparing myself for what is to come. With this, my goal has been to join the armed forces to serve my country in the Navy service and safety, to maintain our Nation's men, prepared and protected.

Through it, I want to earn degrees in business administration, and project management, and operations management, and as well as in human resources management. As a result, I will be fulfilling my aspirations of leading others into impacting the lives of many more in the process of building stronger leaders in those key areas.

Unfortunately for me, my dream cannot be accomplished due to the lack of legal documents that would otherwise enable me to expand my potential of self-improvement as a leader in our Nation's armed forces and in the civilian world. This impediment, nonetheless, cannot be overcome without the consideration of Congress to pass a comprehensive immigration reform.

Even then, in the words of Dr. Martin Luther King, Jr., the arc of the moral universe is long, but it bends towards justice. It bends towards justice, but here is the thing; it does not bend on its own. It bends because each of us in our own ways put our hands on that arc and we bend it in the direction of justice.

#### PREPARED STATEMENT

Senator Durbin, I ask that you and the Congress act in all deliberate speed to start bending that moral arc toward the direction of justice, so that I, and my fellow Americans sharing this common predicament, can live our dreams and start bending that moral arc for others.

I ask that you grant us these opportunities, these dreams, to show our true potential and patriotism to this country, our Nation.

Thank you.

[The statement follows:]

#### PREPARED STATEMENT OF CADET COMMAND SERGEANT MAJOR MARIO RODRIGUEZ

Thank you Chairman Durbin for inviting me to testify today.

I am Cadet Command Sergeant Major Mario Rodriguez. I'm a Cadet in Chicago's Phoenix Military Academy High School and I am an American. I do not possess the official documents required by the Department of Homeland Security, but I am an American. I'm an American because I love my country. I'm an American because I have respected and followed all of my country's laws. I'm an American because I've dedicated myself to doing all I can to make my community and county better. I'm an American because I'm ready and willing to support and defend our Nation's Constitution against all those who threaten it. I'm an American because citizenship rests more in one's devotion and love for their country than mere accident of birth.

My becoming an American began when I was 8 years old. Upon arriving in the United States, my parents turned their backs on everything they had secured for their family in Mexico and decided to raise my brother and me with the mere notion of earning a higher paycheck so that they could provide us with a better life.

Like many young children, I had visions of becoming an astronaut or a cowboy, but I always knew that I wanted to become someone who positively influenced and impacted the lives of others. At that point of my life, however, I was afraid to be different and stand out from my peers. Later, I learned to utilize my weaknesses as guides for my academic and social transformation.

Living in the United States, I had the misfortune of seeing my parents struggle due to their lack of identification. This has cost them jobs and raises at work, and prevented them from fully participating as citizens. Recently, this lack of paperwork or forms of identification prevented me from expanding my own education: I had the grades, the GPA, and the extracurricular activities to apply to summer programs,

but upon applying for financial aid, the organizations asked questions I could not answer to. I could not prove my status, provide official identification, or produce the necessary paperwork for aid.

With the help of my mentors from a college preparatory program called Minds Matter, my counselors, and librarian, I sought to create my official identity. The few months after turning 18 were busy: I obtained an ID from the Mexican Consulate, a bank account, Deferred Action status, my work permit, and a Social Security number. These accomplishments signify not only my determination to excel in a country where the law becomes a challenge for immigrants from becoming active participants in its government and economy. They also demonstrate my ability to accomplish so much in a short period of time.

It is not the end, however. Next in line are my driver's license, State I.D., my passport, and, beyond that, the pursuit of the American status that will grant me an identity other than that of an "alien" immigrant. I've learned to utilize the available gateways to solve my problems legally and, though it has been a rough path, I'm glad that I'm preparing myself for what is to come.

My goal has been to join the Armed Forces. I want to serve my country in the Navy's Service and Safety community to help keep our Nation's sailors prepared and protected. I hope to earn degrees in Business Administration in Project Management and Operations Management, Culinary Arts, and Human Resource Management. As a result, I will be fulfilling my aspirations of leading others into impacting the lives of many more.

Unfortunately, for me, my dream cannot be accomplished due to the lack of legal documents that would otherwise enable me to expand my potential for self-improvement as a leader in our Nation's Armed Forces and in the civilian world. This impediment cannot be overcome without the consideration of Congress to pass a comprehensive immigration reform or with the Defense Department authorizing the enlistment of Dreamers.

In the words of Dr. Martin Luther King Jr., the arc of the moral universe is long but it bends towards justice. It bends towards justice, but here is the thing: it does not bend on its own. It bends because each of us in our own ways put our hand on that arc and we bend it in the direction of justice. Senator Durbin, I ask that you and the Congress act in "all deliberate speed" to start bending that moral arc toward the direction of justice, so that I and my fellow Americans sharing this common predicament can live our dreams and start bending that moral arc for others.

I ask that you grant us these opportunities—these dreams—to show our true potential and patriotism to this country, our Nation.

Senator DURBIN. Thank you very much, Cadet Sergeant Major Rodriguez.

Cadet Captain Jessica Calderon is Company Commander at Phoenix Military Academy. Cadet Calderon is a junior and has a 4.0 GPA. She is a leader on Phoenix's city champion Raider Team, a Junior ROTC Military Adventure Squad. She is also an Illinois Institute of Technology Boeing Scholar. Her dream is to attend West Point.

Thank you for joining us, and please proceed.

**STATEMENT OF CAPTAIN JESSICA CALDERON, CADET CAPTAIN,  
PHOENIX MILITARY ACADEMY, CHICAGO, ILLINOIS**

Cadet Captain CALDERON. My name is Jessica Calderon. I am a Cadet Captain in the firebird battalion at Phoenix Military Academy. I am a junior with a 4.0 GPA, and I am ranked No. 7 in my class.

I came here not by my free will, but by the choice of my mother, who wanted nothing more than to provide the best life for her two daughters and pursue the American dream. It was quite a treacherous journey for my mom, who had to be separated from her two beloved daughters in order to have a safe journey coming to America.

I came here by plane, so I did not have to go through the dangerous process most immigrants had to endure to come to America.

I finally arrived here when I was 3-years-old. While still maintaining my Mexican heritage, I became an American at heart. I was raised in America, and really consider myself to be a citizen even though some numbers and papers do not say so.

I do not let my status determine what I want to accomplish in life, but I never fail to realize that my opportunities are limited. I hope that in the future, if I have the privilege to become a citizen that I can pursue what I have been dreaming of ever since I stepped foot into high school.

Before I even start mentioning what I want to accomplish in life, I want to say that I am grateful for every opportunity that America has given me, and I take advantage of everything that comes my way. America is built upon the efforts of people that work to make the country better, and I abide by the laws that America sets forth. I believe the characteristics I hold, the things I do at school, and the grades I have earned, make me a good candidate to be a citizen.

The only thing that holds me back from accomplishing my goals is my status as an undocumented immigrant in this country. I still dream, and if I am granted an opportunity to get my citizenship, I will never stop working as hard as I have since the day I got here.

I hope to attend the United States Military Academy at West Point, which has been my dream since I first stepped foot in Phoenix. This Academy has truly molded me into the person I never thought I would become, but I am glad that I did.

I dream of becoming the officer for the United States Army through West Point if I am granted admittance into the academy. If this plan fails, I plan to attend college regardless, and go through the ROTC process so I can become an Army officer. When I enter college, I plan to major in creative writing, biomedical engineering, or international relations, and hopefully to have a career in either one of those fields. If this fails I will attend community college, and then transfer into a 4-year university. No matter what happens, I want to pursue a higher education when I get out of high school.

#### PREPARED STATEMENT

Senator, I hope you can persuade the House to pass immigration reform, not only for myself, but for the rest of the immigrants who cause no trouble to America, and want to serve this country. If the House does not pass comprehensive immigration reform, I hope that they can pass the DREAM Act so that, at least, young immigrants can pursue a higher education and serve this country.

I also hope that the Defense Department will authorize the enlistment of DACA recipients so that DREAMers can serve in the armed forces. This really needs to happen because it is the only thing holding us back from our goals and accomplishing them. We can really contribute to this Nation. I consider the rest of the immigrants and myself to be an asset to this country.

Thank you.

[The statement follows:]

## PREPARED STATEMENT OF CADET CAPTAIN JESSICA CALDERON

Thank you Chairman Durbin for inviting me to testify today.

My name is Jessica Calderon; I am a Cadet Captain in the firebird battalion at Phoenix Military Academy. I am a junior with a 4.0 GPA, and am ranked seventh in my class. I came here not by my free will but by the choice of my mother, who wanted nothing other than to provide the best life for her two daughters and pursue the American dream. It was quite a treacherous journey for my mom, who had to be separated from her two beloved daughters in order to have a safe journey coming to America. I came here by plane, so I didn't have to go through the dangerous process most immigrants had to endure to come to America. I finally arrived here when I was 3 years old. While still maintaining my Mexican heritage, I became an American at heart. I was raised in America, and really consider myself to be a citizen even though some papers and numbers don't say so.

I don't let my status determine what I want to accomplish in life, but I never fail to realize that my opportunities are limited. I hope that in the future, if I have the luxury to become a citizen, I can pursue what I have been dreaming of ever since I stepped foot in high school. Before I even start mentioning what I want to accomplish in life, I want to say that I am grateful for every opportunity that America has given me, and I take advantage of everything that comes my way. America is built upon the efforts of people that work to make the country better, and I abide by the laws that America sets forth. I believe that the characteristics I hold, the things I do at school, and the grades I have earned, make me a good candidate to be a citizen. The only thing that holds me back from accomplishing my goals is my status as an undocumented immigrant in this country. I still dream, and if I'm granted an opportunity to get my citizenship, I won't ever stop working as hard as I have since the day I got here.

I hope to attend The United States Military Academy at West Point, which has been my dream since I first stepped foot in Phoenix. This school really molded me into the person I never thought I would become, but I'm glad that I did. I dream of becoming an officer for the United States Army through West Point if I'm granted admittance into the academy. If this plan fails, I plan to attend college regardless and go through the ROTC process so I can become an Army officer. When I enter college, I plan to major in Creative Writing, Biomedical Engineering, or International Relations and hopefully to have a career in one of those fields. If this fails I will attend community college, and then transfer into a 4-year university. No matter what happens, I want to pursue a higher education when I graduate from high school.

Senator, I hope you can persuade the House to pass immigration reform, not only for myself but for the rest of the immigrants who cause no trouble to America and want to serve this country. If the House doesn't pass comprehensive immigration reform, I hope that they can pass the DREAM Act so that at least young immigrants can pursue higher education and serve this country. I also hope that the Defense Department will authorize the enlistment of DACA recipients so that Dreamers can serve in the Armed Forces. This really needs to happen because it is the only thing keeping us from our goals and accomplishing them; we can really contribute to this Nation. I consider the rest of the immigrants and myself to be an asset to this country.

Senator DURBIN. Thank you very much, Cadet Captain Calderon.

Before asking a few questions to this panel, I would like to acknowledge several other people who are here and tell you briefly their stories.

Cadet Captain Tania Brito, would you please stand?

Cadet Captain Brito is Company Commander at Phoenix Military Academy. Her parents brought her to Chicago from Mexico when she was 3-years-old.

Cadet Captain Brito recently won the Best in Mathematics Award at the Illinois State Science Fair. She holds a GPA of 4.4 and dreams of enlisting in the Illinois Army National Guard. We would be lucky to have you.

Thank you very much.

Cadet Captain Abigail Nava, would you please stand?

Cadet Captain Nava is a Plans and Operations Officer S3 at Phoenix Military Academy, senior with a 3.8 GPA, was brought to

the U.S. from Mexico at the age of 10, and dreams of attending West Point.

Cadet Captain Samantha Ortega, would you please stand?

She is Phoenix Military Academy's Battalion Logistics Officer S4. She is a senior with a 4.1 GPA, brought to Chicago from Mexico at the age of 1. Her dream is to become a Marine.

Alejandro Morales, please stand.

He was referred to earlier, brought to the United States from Mexico at the age of 7 months. He graduated from the Marine Math and Science Academy, where he rose to become the City Corps Staff Commander, the highest ranking cadet of the 11,000 Junior ROTC cadets at Chicago public schools. His dream is to become a Marine.

In a letter to me he wrote, and I quote, "I want to serve and fight to protect my country. I am an American. I know nothing but the United States."

Last year while the Senate was debating our Comprehensive Immigration Reform, I took Mr. Morales' story to the floor of the senate so that my colleagues and everyone who followed that important, historic debate could hear about him. I wanted everyone to know who the people are, who are looking for this opportunity to serve.

And I thank you for being here today.

Sergeant Vazquez, it was not that many years ago you might have been sitting in one of these chairs in Arizona as a member of the Junior ROTC. And I'm listening to your amazing life journey that brought you to Phoenix Military Academy for this hearing today.

What would you say to the many people that we have introduced, and many others who are sitting here, the same position you were that many years ago?

Sergeant VAZQUEZ. Senator, I would tell them to continue to prepare themselves mentally, physically, and academically for when that opportunity comes that they are ready and competitive for any of the changes that might come in the future. And that would be my personal message for them, sir.

Senator DURBIN. When you were in the active military and deployed, was there ever a time when you felt that you were not treated as an equal to the men and women you were serving with?

Sergeant VAZQUEZ. Sir, personally, when I was deployed, I never had any issues. Every member of my platoon and I were just fighting for one common goal, and I never felt I was treated differently, sir.

Senator DURBIN. Let me ask you about your family situation. When you went through this experience of going to Mexico, you left behind your new wife and your new baby, and you talked about how difficult it was to introduce yourself as a father to your daughter, and now, you have a son.

It sounds to me like your wife should also get a special reward or a special recognition for standing by her husband throughout this journey as well.

Sergeant VAZQUEZ. I definitely believe so, sir. I cannot thank her enough. My beautiful wife has always been next to me and she has given me the support that I have needed to come this far. I defi-

nitely owe her a lot and it really shows why we are still together almost 10 years later, sir.

Senator DURBIN. I ask Mario Rodriguez and Jessica Calderon, can you both explain why you decided that service in our military was an important part of your future?

Cadet Sergeant RODRIGUEZ. I will go first.

Well, first of all, we have come to a military academy to prepare ourselves for 4 years. And when the notion of coming to the U.S. is obviously to come and work, provide a better life for our families, but as we go into the service, we think about the holistic point of view of not just our family, not just our community, not just our State. We look at the entire Nation. We have prepared ourselves, again, not only to serve our families and represent them, but again, our country.

We, like you mentioned before, the United States is pretty much all we know even though we were born in Mexico or other countries of Latin America, our countries would be a different place for us to go.

Senator DURBIN. Jessica.

Cadet Captain CALDERON. Yes, and like he said, when I decided a service would be best is just that what I have learned through JROTC, the values that the Army sets forth.

Originally, I did not even want to come to Phoenix. I did not even consider it a choice or any JROTC schools. My cousin came here, so I decided, "Why not?" And ever since I stepped foot into Phoenix, it changed me, and it did not change me for the bad, it changed me for the better.

And I think as this is all I know, America is all I know. I acknowledge my Mexican heritage, but I pledge allegiance, like you mention to this Nation every day and I would not feel comfortable defending any other Nation but America. And I feel like I am like a good candidate and sometimes it gets back to come to reality that I cannot do it, but I will never stop working as hard as I can until one day that I get to serve this Nation.

Senator DURBIN. Thank you.

Colonel Kelley, many people may not realize what sacrifices are made by these cadets to apply, and to come to school, and to live under the standards, and codes, and discipline, and rules that are part of our military academies.

Can you give us an insight into the type of young man or woman who makes this decision to come to places like Phoenix Military?

Colonel KELLEY. Mr. Chairman, it takes a special person to make that decision in the first place, that they are going to take a step already beyond themselves to one of service. They may not be taking a path toward enlistment right away, but they know that they are going to be coming to an academy of structure and discipline, and they want to be a part of that.

They also know that they are going to have to—for many of them and you saw by the show of hands—do the sacrifice of the multiple bus trips or train rides, sometimes commuting, getting up at 4:00 or 5:00 in the morning to be here on time to be here. So there are sacrifices that they make.

They also have opportunity here and those opportunities are in leadership development and growth, and learning the values that

Cadet Calderon was alluding to: values of service and values of citizenship. And so, as they grow in those, I think they make ideal candidates, then, to become better citizens in our country.

Senator DURBIN. The last question I have is for Mr. Chen, and it is a lawyer question, but that is your capacity here today as an immigration lawyer.

There have been a lot of conversations about what might happen, what the Department of Defense might do. We have this group of about 500,000 who have gone through the application process for DACA. They have paid the fee. They have gone through the background check. They have met all of the standards in terms of their background and their education, and now they are here in deferred status. They cannot be deported. That is about to go through renewal.

The question is whether or not you believe that the Administration could have the legal authority to say, "Those who go through the DACA process would be considered eligible to be part of our military, that their enlistment could be vital to our national interest."

Do you think as the President initially decided that potential DREAMers could be given this opportunity for deferred action in DACA, could the Administration make a similar decision that those DACA-eligible should be allowed to enlist?

Mr. CHEN. Senator, I think the simple answer to that question would be yes, from the analysis the AILA has done legally.

And to give a little bit of an explanation for it; the vital to the national interest language that is in the statute, there is not any specific statutory definition for it. And there is no legislative history, as I mentioned before, confining the Department of Defense to a specific interpretation. So essentially, the Department has broad authority and discretion to interpret that language.

And what constitutes vital to the national interest in this context? Essentially it is, as we have heard already from testimony, not only on this panel but before, the military has a great need at this time to be able to recruit the best possible candidates, of which so many are here in the room today. But the pool for that is not always as strong as it could be, and there is always the goal of getting stronger recruitment pool candidates.

As we discussed already here at this hearing, the DACA recipient pool is the perfect pool for that purpose of all the different characteristics: diversity, language, having already gone through quite a bit of the screening.

So, yes, in simple terms, the Department of Defense would have the authority to make that designation on a categorical basis and say that those people who are DACA recipients as a category would meet the vital to the national interest designation.

Senator DURBIN. Thank you. I am going to conclude this hearing by observing a couple of things.

What did we learn today? What did we learn from the two congressmen who came? What did we learn from the Secretary of Defense who testified? What did we learn from this panel? And what did we learn from the protestor who was at this meeting?

We learned something about America. We learned, first, that we could have an open and public hearing. That we can sit and speak

to one another in a civilized way about an issue that is so critical to so many who are gathered here today.

The ultimate decision that is made on this issue can change so many lives of people in this room. And we are part of a Government where people have a chance to come forward and to state their views.

I thought the testimony here was amazing. I thought the witnesses who came forward were incredible, right here, in Chicago. Sergeant Vazquez, who came all the way from Alaska to tell an amazing story which we should never, ever forget.

But let me say a word about the protestor who was here today too. He was exercising his rights as an American citizen to stand up and disagree or to call me out. That is part of this country. He was not arrested, and taken away, and put in jail. That is not what we do in America. We allow people to state their points of view.

Now, I will return tomorrow to Washington where the debate on this issue continues and many people disagree with my position. But I believe, as the Congressman Gutiérrez said earlier, a majority agrees. They agree that if you are willing to signup in our military and risk your life for America, you should be given the opportunity. It will make you a better person. It will make us a better country, a stronger country.

So as we think about the military and what they are fighting for, it is not just to win a battle. It is to protect the values of who we are as a Democratic Nation. This hearing is part of that American conversation. It may only be a small footnote, but it is part of that American conversation that our military, thank goodness, throughout our history has stood up to defend.

#### SUBCOMMITTEE RECESS

I want to thank the Phoenix Military Academy, thank all of you who have come as part of this panel, and tell you that as this American conversation continues, our testimony today will be an important part of it.

This meeting of the subcommittee stands adjourned.

[Whereupon, at 11:03 a.m., Monday, May 19, the subcommittee was recessed, to reconvene subject to the call of the Chair.]